

REQUEST FOR WAIVER AND REVIEW

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)
)
Request for Waiver and Review of Decisions of the)
Universal Service Administrator for)
San Antonio Positive Solutions, Inc.)
DBA Positive Solutions Charter School)
)
Schools and Libraries Universal Service)
Support Mechanism)

Funding Year 2003
Form 471 Application Number 367995
Funding Request Number ("FRN") 1002895

Request for Waiver and Review

WAIVER:

Pursuant to Section 54.719(c) of Title 47 of the Code of Federal Regulations ("47 CFR"), San Antonio Positive Solutions, Inc., doing business as Positive Solutions Charter School ("Positive Solutions" or "School"),¹ files this Request for Waiver and Review ("Request") requesting the Federal Communication Commission ("FCC" or "Commission") to waive the regulatory deadline for filing an appeal of an administrator decision, as set forth at 47 CFR §54.720(a) ("60-day Rule"), so that the Commission might review a decision of the Universal Services Administrative Company ("USAC"), administrator of the School and Libraries Program ("E-Rate"), to adjust a funding commitment to Positive Solutions, as per USAC's Appeal Decision Letter of January 8, 2018 ("January 2018 ADL").²

¹ The School's Billed Entity Number ("BEN") is 226729.

² As discussed further herein, neither Positive Solutions nor its legal counsel, Robert Schulman, have received the January 2018 ADL. Positive Solutions only learned of the January 2018 ADL upon receipt of USAC's letter dated September 19, 2018.

In summary, Positive Solutions asks the Commission to waive the 60-day Rule permitting it to further review and waive USAC's decision to deny the School's appeal of the adjustment to its overall E-Rate funding commitment that would have the effect of rescinding the USAC's First and Second Demand Payment Letters to Positive Solutions dated June 27, 2018 and July 30, 2018, respectively.

Background

Positive Solutions, a Texas nonprofit 501(c)(3) corporation operates an open-enrollment charter school for the public school system of the State of Texas. Positive Solutions provides instruction to at-risk high school students in grades nine through twelve. As a Texas public school, Positive Solutions is eligible to participate in E-Rate and to request funding from USAC for eligible services.

Positive Solutions received its Charter from the Texas State Board of Education in October 1998. On or about December 20, 2002, Positive Solutions submitted a Form 470 for tariffed services for a new written contract for the 2003 funding year. The School specifically sought telecommunications services, internet access and internal connections. See Form 470 attached as Exhibit A. On February 3, 2003 Positive Solutions awarded a contract for internal connections, a component of which was cabling, to the only vendor responding to its Form 470, RGC and Associates, Inc. ("RGC"). Subsequently, on or about February 5, 2003, the School submitted a Form 471 for Category Two Services, Internal Connections. See Form 471 attached as Exhibit B. In response, the USAC authorized the funding commitment in the amount of \$161,154.39 to pay for the RGC contracted services.

Fourteen and a half years later, on June 16, 2017, USAC issued and the School received a Notification of Commitment Adjustment Letter (the “June 2017 Notice”) informing Positive Solutions of its determination that it “must now adjust [the School’s] overall funding commitment” in that “funds committed in 2003 were in violation of SLP rules”. The June 2017 Notice, also stated that USAC had “determined the applicant [...the School...] is responsible for all or some of the violations” and must “...repay all or some of the funds disbursed in error”.

On the Funding Commitment Adjustment Report for Form 471 Application Number: 367995 enclosed with the June 2017 Notice, the USAC identified the “Funds to be Recovered from Applicant” as the total Category Two Services amount of \$161,154.39, the entire amount of E-rate funding disbursed. USAC further stated that the entire amount of E-rate funds had been “erroneously committed for the funding request 1002895, *which was not justified as cost effective [...because the funds were in excess of the School’s...] reasonable needs.*” (emphasis added) See June 2017 Notice attached as Exhibit C.

On August 15, 2017, the undersigned appealed the USAC’s determination (the “August 2017 Appeal”). See August 2017 Appeal attached as Exhibit D. The August 2017 Appeal pointed out that, while “the applicable rule was not identified,” the School surmised that the alleged failure was that it did not adhere to 47 CFR §54.504, FCC protocols for submitting an FCC Form 470 and 47 CFR §54.511, protocols for selecting a provider of eligible services through careful consideration of all bids submitted. The August 2017 Appeal pointed out that neither of these CFRs, as laid out in the present day, were adopted and in effect at the time of the School's 2003 contract with RGC (See RGC Statement of Work dated February 3, 2003 attached as Exhibit E.) or at the time the School had received its Funding Commitment Decision Letter dated March 30, 2004. The appeal argued that the School could not have complied with nonexistent CFR

requirements and that it had awarded a contract to RGC because RGC was the one and only response to the School's Form 470 in 2003. As such, RGC, was the one and only possible E-rate qualified vendor for providing needed internet access and connectivity to the School. The RGC proposal met the reasonable needs of the School, that is, Internet access for Positive Solutions staff and students. As such, RGC's proposal appeared to the School to be very "cost effective."

As to the School's inability to provide records pertaining to its selection of RGC, the August 2017 Appeal also drew USAC's attention to the **five-year** record retention requirement adopted by the Federal Communications Commission (the "FCC") in an amendment to the Code of Federal Regulations, 47 CFR §54.516(a). The FCC's amendment effectively implemented its "*Administrative Limitations Period for Audits or Other Investigations by the [FCC] or USAC*" that it espoused in its Fifth Report and Order adopted on August 4, 2004. Notably, the School's appeal observed that the FCC had declared in that Order: "We announce our policy that we will initiate and complete any inquiries to determine whether or not statutory or rule violations exist within a five-year period after final delivery of service for a specific funding year."

Despite Positive Solutions' meritorious appeal arguments and without even responding to same, on June 27, 2018, USAC issued its First Demand Payment Letter to the School (the "June 2018 Demand Letter"). See the June 2018 Demand Letter attached as Exhibit F. On July 12, 2018, the School issued its response to the June 2018 Demand Letter in which it pointed out that "the School has not received USAC's decision relating to our appeal that was filed on August 15, 2017." See July 12, 2018 Request for Review of Records Supporting Debt attached as Exhibit G.

On July 30, 2018, USAC issued its Second Demand Payment Letter to the School (the "July 2018 Demand Letter"). See the July 12, 2018 Demand Letter attached as Exhibit H. On

August 9, 2018, the School issued its response to the July 12, 2018 Demand Letter. See August 9, 2018 letter to USAC attached as Exhibit I.

On September 19, 2018, USAC issued its response to the School's July 12, 2018 letter ("USAC's Response"). See USAC's Response attached as Exhibit J. Notably, the USAC's Response only explanation of its failure to respond to the Schools appeal and its issuance of two payment demands was found in a footnote, Footnote 5 that stated: "*See Appeal Decision Letter from Universal Service Administrative Company to Robert Schulman, Counsel to PSCS (Jan. 8, 2018) (January 2018 ADL) (explaining that even when only one bid is received, the applicant must select cost-effective services and that no extenuating circumstances were provided to justify the higher costs for these services).*" Contrary to USAC's assertion in Footnote 5, USAC had not provided its January 2018 ADL to the undersigned, Robert Schulman, nor has it to date provided the undersigned or his client, Positive Solutions, with that ADL.

January 2018 ADL

In that USAC did not provide the January 2018 ADL to the School or its counsel, neither the School nor its representative has received USAC's rationale for finding that the single RGC bid selected by the School was not "cost effective" or why the amount of the bid was considered by USCA as a "higher cost of services." Higher than what? How much "higher?" By what standard?

Obviously, the issuance to Positive Solutions of a June and July 2018 Demand Letter cannot constitute notice of USAC's appeal decision thereby effectively preventing the timely filing of an appeal pursuant to FCC rules requiring USAC to have provided the School with its basis and rationale for USAC's determination, hardly discernable from Footnote 5 in USAC's Response.

Thus, while Positive Solutions has never been provided sufficient information to mount an appeal on the facts, it is also true that USAC has not to date addressed the appellate arguments the School offered in its August 2017 Appeal.

Notwithstanding the absence of the USAC Decision, that we would want to confront in detail, an effort to address the general matters on appeal appears below:

REVIEW:

FCC Requirements for Ordering Services

At the time that the School submitted its Form 470 and Form 471 for Funding Year 2003, in December of 2002 and February of 2003, respectively, the following requirement at 47 CFR §54.511(a) applied to its selection of a provider for eligible services:

In selecting a provider of eligible services, schools, libraries, library consortia, and consortia including any of those entities shall carefully consider all bids submitted and may consider relevant factors other than the pre-discount prices submitted by providers.

On June 20, 2003, the FCC amended 47 CFR §54.511(a) to state:

In selecting a provider of eligible services, schools, libraries, library consortia, and consortia including any of those entities shall carefully consider all bids submitted and must select the most cost-effective service offering. In determining which service offering is the most cost-effective, entities may consider relevant factors other than the pre-discount prices submitted by providers but price should be the primary factor considered. (Emphasis added)

A plain reading of the language used reveals, under 47 CFR §54.511(a), in effect since April 28, 1999 until amended on June 20, 2003, the CFRs did not require the School to select the

most cost-effective service offering.³ Neither was the School required, by the applicable CFR, to consider price as the primary factor. Instead, the School was to carefully consider *all* bids submitted. Moreover, as observed under 47 CFR §54.511(a) then in effect, the School was not required, by rule, to document a decision to accept only a single bid in response to its Form 470.

This legal requirement, we assume USAC applied to find rule violations, was not in effect when the School posted its Form 470 and, most significantly, nor were they in effect until after the School had negotiated and entered into a contract with the only bidder submitting a response.

FCC Recordkeeping Requirements

Upon receipt of the June 2017 Notice, Positive Solutions searched for the bid records pertaining to FRN 1002895. However, being that the record retention requirements applicable to these records under both state and federal law was five (5) years, the School located no such records. Even so, the administrators primarily involved in the procurement of the E-Rate eligible services in question were yet available to provide affidavits attesting to the fact that only one vendor, RGC, had submitted a responsive bid to the School's Form 470. See Affidavit of Arturo Suarez and Affidavit of Pamela M. Solitaire included in Exhibit D, August 2017 Appeal.

At the time that the School submitted its Form 470 and Form 471 for Funding Year 2003, the following recordkeeping requirement was in effect at 47 CFR §54.516(a):

Schools and libraries shall be required to maintain for their purchases of telecommunications and other supported services at discounted rates the kind of procurement records that they maintain for other purchases.

³ While we appreciate and understand that the FCC and USAC cannot conceivably anticipate and address each possible circumstance arising from a school's participation in the E-Rate program, we nonetheless observe that it was even more challenging in the early days of E-rate for a school to comply with legal requirements not set forth in a governing regulation adopted through the formal rule making process required under the Administrative Procedures Act codified at United States Code, Title 5, Chapter 5.

Subsequently, on February 10, 2004, the FCC amended 47 CFR §54.516(a) to require:

Schools and libraries shall be required to maintain for their purchases of telecommunications and other supported services at discounted rates the kind of procurement records that they maintain for other purchases. Schools and libraries shall be required to maintain asset and inventory records of equipment purchased as components of supported internal connections services sufficient to verify the actual location of such equipment for a period of five years after purchase. (Emphasis added)

Under 47 CFR §54.516(a) then in effect, the School was required to maintain the same procurement records it maintained for other purchases. Texas Education Code Section 12.1053, the Texas law governing purchases by open-enrollment charter schools, contains the following legal requirement applicable to the School's purchasing:⁴

APPLICABILITY OF LAWS RELATING TO PUBLIC PURCHASING AND CONTRACTING

(a) This section applies to an open-enrollment charter school unless the school's charter otherwise describes procedures for purchasing and contracting and the procedures are approved by the commissioner.

(b) An open-enrollment charter school is considered to be:

(1) a governmental entity for purposes of:

(A) Subchapter D, Chapter 2252, Government Code; and

(B) Subchapter B, Chapter 271, Local Government Code;

(2) a political subdivision for purposes of Subchapter A, Chapter 2254, Government Code; and

(3) a local government for purposes of Sections 2256.009-2256.016, Government Code.

(c) To the extent consistent with this section, a requirement in a law listed in this section that applies to a school district or the board of trustees of a school district applies to an open-enrollment charter school, the governing body of a charter holder, or the governing body of an open-enrollment charter school.

⁴ This state law became effective on September 1, 2001 and was in effect at the time the School posted its Form 470 and thereafter with one minor inconsequential amendment to subsection (a).

This same state law governs the School's purchasing of the goods and services pertaining to contracts for public works (or construction services) and professional services today. Consequently, at the pertinent period of time through the present day, the School was not required to purchase goods or services by any particular method of procurement and these state laws, under federal guidelines, are the laws governing the purchases of telecommunications and other supported services under the E-Rate program. Commensurately, the School was not then, nor is it now, required to maintain a record of its procurement of telecommunications and other supported services, except, of course, in conformance with generally accepted accounting principles.

In its Fifth Report and Order adopted on August 4, 2004, and released on August 13, 2004, the FCC observed the following regarding document retention requirements:

45. Currently, the Commission's rules require each entity to maintain "for their purchases of telecommunications and other supported services at discounted rates the kind of procurement records that they maintain for other purchases." Service providers also are required to retain records of rates charged to and discounts allowed for entities receiving supported services. The Commission's rules do not specify how long such records should be maintained nor do they require entities or service providers to maintain records to demonstrate compliance with all program rules. (Footnotes omitted.)

In its Fifth Report and Order, the FCC addressed the issue of recordkeeping for the bidding process as follows:

48. Although we agree with commenters that an explicit list of documents that must be retained in the recordkeeping requirement would be most useful for service providers and program beneficiaries, we do not believe that an exhaustive list of such documents is possible. We base this conclusion on our knowledge that due to the diversity that exists among service providers and program beneficiaries, the descriptive titles or names of relevant documents will vary from entity to entity. To address commenters' concerns, however, we provide for illustrative purposes the following description of documents that service providers and program beneficiaries must retain pursuant to this recordkeeping requirement, as applicable:

[...]

- ***Bidding Process.*** All documents used during the competitive bidding process must be retained. Beneficiaries must retain documents such as: Request(s) for Proposal (RFP(s)) including evidence of the publication date; documents describing the bid evaluation criteria and weighting, as well as the bid evaluation worksheets; all written correspondence between the beneficiary and prospective bidders regarding the products and service sought; all bids submitted, winning and losing; and documents related to the selection of service provider(s). Service providers must retain any of the relevant documents described above; in particular, a copy of the winning bid submitted to the applicant and any correspondence with the applicant. Service providers participating in the bidding process that do not win the bid need not retain any documents. (Footnote omitted.)

Notably absent from the illustrative description of documents that program beneficiaries must retain pursuant to the recordkeeping requirement established under §54.516(a) is guidance relating to the records that an E-Rate participant should have obtained and maintained when only one responsive bid is received and accepted. Of course, as the FCC noted in its Fifth Report and Order, we acknowledge here that “an explicit list of documents that must be retained [to demonstrate compliance with] the recordkeeping requirement [established at §54.516(a)...] is [and was not] possible” and that, therefore, the guidance in need at the pertinent point in time was not available to the School. Nonetheless, to the degree that the FCC and USAC require compliance with a legal requirement, general guidance addressing such requirements was not provided, nor did the applicable legal authority specifically address a record keeping standard.

USAC erred in applying a legal requirement not in effect at the time that the School received and evaluated its only response to its Form 470 and after it filed its Form 471.

Keyport School District Decision

On October 20, 2009, the FCC adopted an Order relating to “an appeal by Keyport School District (*Keyport*) of a decision by the USAC denying *Keyport’s* request for funding under the schools and libraries universal service support mechanism”. See Order attached as Exhibit J. In its Order, the FCC ruled in favor of *Keyport* because the FCC recognized that “prior to funding year

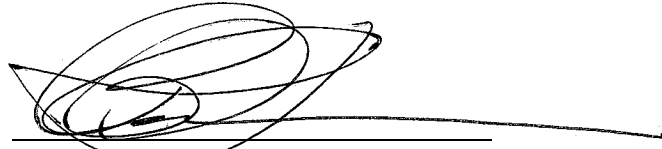
2005, the Commission had not adopted rules describing the types of documents E-rate program participants were required to keep in order to demonstrate compliance with the Commission's competitive bidding rules. Rather, the Commission's rules in effect at the time of *Keyport's* application required each entity to maintain, for their purchases of telecommunications and other supported services, "the kind of procurement records that they maintain for other purchases." *Keyport*, therefore, had no obligation to produce documentation that it would not normally maintain for other purchases, particularly where the state law did not require *Keyport* to seek competitive bids. We thus find, based on our review of the record, that *Keyport* complied with the Commission's competitive bidding requirements." (Footnotes omitted.) Positive Solutions asks that it be treated consistent with the *Keyport* decision.

Conclusion

Positive Solutions Charter School respectfully requests that, for the above reasons, the Commission waive the 60-day Rule, in order to review and waive USAC's decision to deny the School's appeal of the adjustment to its overall E-Rate funding commitment, and that the Commission order USAC to rescind its June 2018 Demand Letter and July 2018 Demand Letter, that no further assessment be levied on Positive Solutions, and that Positive Solutions be permitted to retain and lawfully apply E-Rate funding received to date.

Respectfully Submitted,

Schulman, Lopez, Hoffer & Adelstein, LLP

A handwritten signature in black ink, appearing to read 'Robert A. Schulman', with a long horizontal line extending to the right.

Robert A. Schulman

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DBA Positive Solutions Charter School

470

Schools and Libraries Universal Service Description of Services Requested and Certification Form

Estimated Average Burden Hours Per Response: 4.0 hours

This form is designed to help you describe the eligible telecommunications-related services you seek so that this data can be posted on the Fund Administrator website and interested service providers can identify you as a potential customer and compete to serve you.

Please read instructions before beginning this application.

(To be completed by entity that will negotiate with providers.)

Block 1: Applicant Address and Identifications

Form 470 Application Number: **194690000445511**Applicant's Form Identifier: **PS6470**Application Status: **CERTIFIED**Posting Date: **12/20/2002**Allowable Contract Date: **01/17/2003**Certification Received Date: **12/20/2002****1. Name of Applicant:****POSITIVE SOLUTIONS CHARTER SCHOOL****2. Funding Year:****07/01/2003 - 06/30/2004****3. Your Entity Number****226729****4a. Applicant's Street Address, P.O.Box, or Route Number****1325 N FLORES, SUITE 100****City****SAN ANTONIO****State****TX****Zip Code****78212****b. Telephone number**

ext.

(210) 299- 1025**c. Fax number****0 -****d. E-mail Address****sapsinc@swbell.net****5. Type Of Applicant**

Individual School (individual public or non-public school)



School District (LEA; public or non-public [e.g., diocesan] local district representing multiple schools)



Library (including library system, library branch, or library consortium applying as a library)



Consortium (intermediate service agencies, states, state networks, special consortia)

6a. Contact Person's Name: MS. PAMELA SOLITAIRE

*First, fill in **every** item of the Contact Person's information below **that is different from Item 4, above**.*

***Then** check the box next to the preferred mode of contact. (At least one box **MUST** be checked.)*

6b. Street Address, P.O.Box, or Route Number**1325 N FLORES, SUITE 100**

EXHIBIT - A

City SAN ANTONIO	State TX	Zip Code 78212
<input checked="" type="checkbox"/> 6c. Telephone Number (210) 299- 1025		
<input checked="" type="checkbox"/> 6d. Fax Number (210) 299- 1052		
<input checked="" type="checkbox"/> 6e. E-mail Address sapsinc@swbell.net		

Block 2: Summary Description of Needs or Services Requested
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7 This Form 470 describes (check all that apply):
a. <input checked="" type="checkbox"/> Tariffed services - telecommunications services, purchased at regulated prices, for which the applicant has no signed, written contract. A new Form 470 must be filed for tariffed services for each funding year.
b. <input type="checkbox"/> Month-to-month services for which the applicant has no signed, written contract. A new Form 470 must be filed for these services for each funding year.
c. <input checked="" type="checkbox"/> Services for which a new written contract is sought for the funding year in Item 2.
d. <input type="checkbox"/> A multi-year contract signed on or before 7/10/97 but for which no Form 470 has been filed in a previous program year.
NOTE: Services that are covered by a signed, written contract executed pursuant to posting of a Form 470 in a previous program year OR a contract signed on/before 7/10/97 and reported on a Form 470 in a previous year as an existing contract do NOT require filing of a Form 470.

What kinds of service are you seeking: Telecommunications Services, Internet Access, or Internal Connections? Refer to the Eligible Services List at www.sl.universalservice.org for examples. Check the relevant category or categories (8, 9, and/or 10 below), and answer the questions in each category you select.

8 ☒ Telecommunications Services
Do you have a Request for Proposal (RFP) that specifies the services you are seeking ?

- a ☒ YES, I have an RFP. It is available on the Web at or via (check one):
☐ the Contact Person in Item 6 or ☐ the contact listed in Item 11.
- b ☒ NO , I do not have an RFP for these services.

If you answered NO, you must list below the Telecommunications Services you seek. Specify each service or function (e.g., local voice service) and quantity and/or capacity(e.g., 20 existing lines plus 10 new ones). See the Eligible Services List at www.sl.universalservice.org for examples of eligible Telecommunications Services. Remember that only eligible telecommunications providers can provide these services under the universal service support mechanism. Add additional lines if needed.

Service or Function:	Quantity and/or Capacity:
Basic telephone service (POTS, Centrex, trunk)	For 1 building
High bandwidth service	For 1 building
Wireless service (cellular)	For 1 building
Video service, distance learning	For 1 building
Long distance, calling card	For 1 building
Maintenance/installation (inside wire maintenance)	For 1 building

9 ☒ Internet Access
Do you have a Request for Proposal (RFP) that specifies the services you are seeking ?

EXHIBIT - A

a <input checked="" type="radio"/> YES, I have an RFP. It is available on the Web at or via (check one): <input type="checkbox"/> the Contact Person in Item 6 or <input type="checkbox"/> the contact listed in Item 11.	
b <input checked="" type="radio"/> NO , I do not have an RFP for these services.	
If you answered NO, you must list below the Internet Access Services you seek. Specify each service or function (e.g., monthly Internet service) and quantity and/or capacity(e.g., for 500 users). See the Eligible Services List at www.sl.universalservice.org for examples of eligible Internet Access services. Add additional lines if needed.	
Service or Function:	Quantity and/or Capacity:
E Mail Account Fees	For 1 building
Internet Service	For 1 building
Dial Up Internet Services	For 1 building
E Mail Services	For 1 building
10 <input checked="" type="checkbox"/> Internal Connections Do you have a Request for Proposal (RFP) that specifies the services you are seeking ?	
a <input checked="" type="radio"/> YES, I have an RFP. It is available on the Web at or via (check one): <input type="checkbox"/> the Contact Person in Item 6 or <input type="checkbox"/> the contact listed in Item 11.	
b <input checked="" type="radio"/> NO , I do not have an RFP for these services.	
If you answered NO, you must list below the Internal Connections Services you seek. Specify each service or function (e.g., local area network) and quantity and/or capacity(e.g., connecting 10 rooms and 300 computers at 56kbps or better). See the Eligible Services List at www.sl.universalservice.org for examples of eligible Internal Connections services. Add additional lines if needed.	

Service or Function:	Quantity and/or Capacity:
Wiring (Cat3, Cat5, coax, fiber,conduit, wiring accessories)	For 1 building
routers, serves, switches, hubs and upgrades	For 1 building
PBX, KSU, ARS, console, components and upgrades, voice compression module, VIC, VoIP	For 1 building
Video CODEC, MCU, MPEG encoder, PVBX, video grouppt and desktop equipment, EMMI	For 1 building
maintenance/installation, technical support, documentation, extended warranty	For 1 building
wireless service, LAN	For 1 building
video equipment (broadband amplifier, cable box and modem)	For 1 building
ATM equipment (edge device, EMMI)	For 1 building
hardware and upgrades for internal connections (CSU/DSU, antenna, tape backup, line sharing device, lmedia converter, modem, monitor, multiplexing, satellite dish, TA, terminal server, UPS, zip drive, DIMM, transceiver)	For 1 building
internal connections components (backup power supply and batteries, cabinets, and power strips, circuit card, ethernet card, graphics card, hard disk array controller, RAID, MAU, NIC, SNMP module, multiport serial card)	For 1 building
operational software and upgrades, e-mail software, client access licenses, programming and configuration charges	For 1 building
construction costs, contingency fees, leasing fees, progeSSIONal services, per diem, travel time	For 1 building

EXHIBIT - A

11 (Optional) Please name the person on your staff or project who can provide additional technical details or answer specific questions from service providers about the services you are seeking. This need not be the contact person listed in Item 6 nor the signer of this form.

Name: Pamela M. Solitaire	Title: Assistant Director
Telephone number (210) 299 - 1025	
Fax number (210) 299 - 1052	
E-mail Address sapsinc@swbell.net	

12. ☐ Check here if there are any restrictions imposed by state or local laws or regulations on how or when providers may contact you or on other bidding procedures. Please describe below any such restrictions or procedures, and/or provide Web address where they are posted and a contact name and telephone number for service providers without Internet access.

13. If you intend to enter into a multi-year contract based on this posting or a contract featuring an option for voluntary extensions you may provide that information below. If you have plans to purchase additional services in future years, or expect to seek new contracts for existing services, summarize below (including the likely timeframes).

Block 3: Technology Assessment

14. ☐ **Basic telephone service only:** If your application is for basic local and long distance telephone service (wireline or wireless) only, check this box and skip to Item 16.

15. Although the following services and facilities are ineligible for support, they are usually necessary to make effective use of the eligible services requested in this application. Unless you indicated in Item 14 that your application is ONLY for basic telephone service, you must check at least one box in (a) through (e). You may provide details for purchases being sought.

a. Desktop communications software: Software required ☐ has been purchased; and/or ☒ is being sought.

b. Electrical systems: ☐ adequate electrical capacity is in place or has already been arranged; and/or ☒ upgrading for additional electrical capacity is being sought.

c. Computers: a sufficient quantity of computers ☒ has been purchased; and/or ☐ is being sought.

d. Computer hardware maintenance: adequate arrangements ☒ have been made; and/or ☐ are being sought.

e. Staff development: ☐ all staff have had an appropriate level of training /additional training has already been scheduled; and/or ☒ training is being sought.

f. Additional details: Use this space to provide additional details to help providers to identify the services you desire.

Block 4: Recipients of Service

16. Eligible Entities That Will Receive Services:

Check the ONE choice (a,b or c) that best describes this application and the eligible entities that will receive the services described in this application. You will then list in Item 17 the entity/entities that will pay the bills for these services.

a. ☐ Individual school or single-site library.

b. ☐ Statewide application for (enter 2-letter state code) representing (check all that apply):

- ☐ All public schools/districts in the state:
☐ All non-public schools in the state:
☐ All libraries in the state:

If your statewide application includes INELIGIBLE entities, check here. ☐ If checked, complete Item 18.

c. ☐ School district, library system, or consortium application to serve multiple eligible entities:

Number of eligible entities	
<i>For these eligible sites, please provide the following</i>	
Area Codes (list each unique area code)	Prefixes associated with each area code (first 3 digits of phone number) separate with commas, leave no spaces
If your application includes INELIGIBLE entities, check here. <input type="checkbox"/> If checked, complete Item 18.	

17. Billed Entities

List the entity/entities that will be paying the bills directly to the provider for the services requested in this application. These are known as Billed Entities. At least one line of this item must be completed. Attach additional sheets if necessary.

Entity Number	Entity
226729	POSITIVE SOLUTIONS CHARTER SCHOOL

18. Ineligible Participating Entities

Does your application also seek bids on services to entities that are not eligible for the Universal Service Program? If so, list those entities here (attach pages if needed):

Ineligible Participating Entity	Area Code	Prefix

Block 5: Certification

19. The applicant includes:(Check one or both)

- a. ☒ schools under the statutory definitions of elementary and secondary schools found in the No Child Left Behind Act of 2001, 20 U.S.C. Secs. 7801(18) and (38), that do not operate as for-profit businesses, and do not have endowments exceeding \$50 million; and/or
- b. ☐ libraries or library consortia eligible for assistance from a State library administrative agency under the Library Services and Technology Act of 1996 that do not operate as for-profit businesses and whose budgets are completely separate from any school (including, but not limited to elementary and secondary schools, colleges and universities).

20. All of the individual schools, libraries, and library consortia receiving services under this application are covered by:

- a. ☒ individual technology plans for using the services requested in the application, and/or
- b. ☐ higher-level technology plans for using the services requested in the application, or
- c. ☐ no technology plan needed; application requests basic local and/or long distance telephone service only.

21. Status of technology plans (if representing multiple entities with mixed technology plan status, check both a and b):

- a. ☐ technology plan(s) has/have been approved by a state or other authorized body.
- b. ☒ technology plan(s) will be approved by a state or other authorized body.
- c. ☐ no technology plan needed; application requests basic local and long distance telephone service only. .

22. ☒ I certify that the services the applicant purchases at discounts provided by 47 U.S.C. Sec. 254 will be used solely for educational purposes and will not be sold, resold, or transferred in consideration for money or any other thing of value.

23. ☒ I recognize that support under this support mechanism is conditional upon the school(s) or library(ies) I represent securing access to all of the resources, including computers, training, software, maintenance, and electrical connections necessary to use the services purchased effectively.

24. ☒ I certify that I am authorized to submit this request on behalf of the above-named entities, that I have examined this request, and to the best of my knowledge, information, and belief, all statements of fact contained herein are true.

25. Signature of authorized person: ☒

26. Date (mm/dd/yyyy): **12/20/2002**

27. Printed name of authorized person: **ARTURO B. SUAREZ**

28. Title or position of authorized person: **DIRECTOR**

29a. Address of authorized person:

City: State: Zip:

29b. Telephone number of authorized person: **(210) 299 - 1025**

EXHIBIT - A

29c. Fax number of authorized person:

29d. E-mail address number of authorized person:

Persons willfully making false statements on this form can be punished by fine or forfeiture, under the Communications Act, 47 U.S.C. Secs. 502, 503(b), or fine or imprisonment under Title 18 of the United States Code, 18 U.S.C. Sec. 1001.

Service provider involvement with preparation or certification of a Form 470 can taint the competitive bidding process and result in the denial of funding requests. For more information, refer to the "Service Provider Role in Assisting Customers" at www.sl.universalservice.org/vendor/manual/chapter5.doc or call the Client Service Bureau at 1-888-203-8100.

NOTICE: Section 54.504 of the Federal Communications Commission's rules requires all schools and libraries ordering services that are eligible for and seeking universal service discounts to file this Description of Services Requested and Certification Form (FCC Form 470) with the Universal Service Administrator. 47 C.F.R. § 54.504. The collection of information stems from the Commission's authority under Section 254 of the Communications Act of 1934, as amended. 47 U.S.C. § 254. The data in the report will be used to ensure that schools and libraries comply with the competitive bidding requirement contained in 47 C.F.R. § 54.504. All schools and libraries planning to order services eligible for universal service discounts must file this form themselves or as part of a consortium.

An agency may not conduct or sponsor, and a person is not required to respond to, a collection of information unless it displays a currently valid OMB control number.

The FCC is authorized under the Communications Act of 1934, as amended, to collect the information we request in this form. We will use the information you provide to determine whether approving this application is in the public interest. If we believe there may be a violation or a potential violation of a FCC statute, regulation, rule or order, your application may be referred to the Federal, state, or local agency responsible for investigating, prosecuting, enforcing, or implementing the statute, rule, regulation or order. In certain cases, the information in your application may be disclosed to the Department of Justice or a court or adjudicative body when (a) the FCC; or (b) any employee of the FCC; or (c) the United States Government is a party of a proceeding before the body or has an interest in the proceeding. In addition, information provided in or submitted with this form or in response to subsequent inquiries may also be subject to disclosure consistent with the Communications Act of 1934, FCC regulations, the Freedom of Information Act, 5 U.S.C. § 552, or other applicable law.

If you owe a past due debt to the federal government, the information you provide may also be disclosed to the Department of the Treasury Financial Management Service, other Federal agencies and/or your employer to offset your salary, IRS tax refund or other payments to collect that debt. The FCC may also provide the information to these agencies through the matching of computer records when authorized.

If you do not provide the information we request on the form, the FCC may delay processing of your application or may return your application without action.

The foregoing Notice is required by the Paperwork Reduction Act of 1995, Pub. L. No. 104-13, 44 U.S.C. § 3501, et seq.

Public reporting burden for this collection of information is estimated to average 4 hours per response, including the time for reviewing instructions, searching existing data sources, gathering and maintaining the data needed, completing, and reviewing the collection of information. Send comments regarding this burden estimate or any other aspect of this collection of information, including suggestions for reducing the reporting burden to the Federal Communications Commission, Performance Evaluation and Records Management, Washington, DC 20554.

Please submit this form to:

**SLD-Form 470
P.O. Box 7026
Lawrence, Kansas 66044-7026
1-888-203-8100**

For express delivery services or U.S. Postal Service, Return Receipt Requested, mail this form to:

EXHIBIT - A

**SLD-Form 470
c/o Ms. Smith
3833 Greenway Drive
Lawrence, Kansas 66046
1-888-203-8100**

FCC Form 470
April 2002

[New Search](#)

[Return To Search Results](#)

EXHIBIT - B

Schools and Libraries Universal Service Program

Services Ordered and Certification Form 471

Application Display

Block 1: Billed Entity Information

Applicant's Form Identifier:

POSSOLYR6#2

471 Application Number: 367995

Funding Year:

07/01/2003 - 06/30/2004

Billed Entity Number:

226729

Cert. Postmark Date: 02/05/2003

Form Status: CERTIFIED - In Window

RAL Date: 03/07/2003

Out of Window Letter Date: Not applicable

Name: POSITIVE SOLUTIONS CHARTER SCHOOL

Address: 1325 N FLORES, SUITE 100

City: SAN ANTONIO **State:** TX **Zip:** 78212

Contact Name: MS. PAMELA M. SOLITAIRE

Address: 1325 N FLORES, SUITE 100

City: SAN ANTONIO **State:** TX **Zip:** 78212

Type of Application: SCHOOL DISTRICT

Ineligible Orgs: N

Block 3: Impact of Services Ordered in THIS Application

Number of students to be served: 198

Number of library patrons to be served:

SERVICE DESCRIPTION	BEFORE ORDER	AFTER ORDER
a. (Schools/districts/consortia only) Telephone service: How many classrooms had phone service before and after your order?	10	10
b. High-bandwidth voice/data/video service: How many buildings served before and after your order?	1	1
c. High-bandwidth voice/data/video service: Highest speed to a building before and after your order?	DSL	T-1
d. Dial-up Internet connections: How many before and after your order?	0	0
e. Dial-up Internet connections: Highest speed before and after your order?	0	0
f. Direct connections to the Internet: How many before and after your order?	1	1
g. Direct connections to the Internet: Highest speed before and after your order?	56	T-1
h. Internet access(for schools): How many rooms have Internet access before and after your order?	10	10
j. Internet Access: How many computers (or other devices) with Internet access before and after your order?	31	39

EXHIBIT - B

Block 4: Worksheets

Worksheet A No: 478690

Student Count: 198

Weighted Product (Sum. Column 8): 178.2

Shared Discount: N/A

1. School Name: POSITIVE SOLUTIONS CHARTER SCHOOL
 2. Entity Number: 226729 3. Rural/Urban: Urban
 4. Student Count: 198 5. NSLP Students: 159 6. NSLP Students/Students: 80.303%
 7. Discount: 90% 8. Weighted Product: 178.2

Block 5: Discount Funding Request(s)

FRN: 1002881 FCDL Date: 03/30/2004	
11. Category of Service: Internal Connections	12. 470 Application Number: 194690000445511
13. SPIN: 143025918	14. Service Provider Name: RGC and Associates, Inc.
15. Contract Number: Tech Support	16. Billing Account Number:
17. Allowable Contract Date: 01/17/2003	18. Contract Award Date: 02/05/2003
19a. Service Start Date: 07/01/2003	19b. Service End Date:
20. Contract Expiration Date: 06/30/2004	
21. Attachment #: TS	22. Block 4 Entity Number: 226729
23a. Monthly Charges: \$.00	23b. Ineligible monthly amt.: \$.00
23c. Eligible monthly amt.: \$0.00	23d. Number of months of service: 12
23e. Annual pre-discount amount for eligible recurring charges (23c x 23d): \$0.00	
23f. Annual non-recurring (one-time) charges: 201500	23g. Ineligible non-recurring amt.: 0
23h. Annual pre-discount amount for eligible non-recurring charges (23f - 23g): \$201,500.00	
23i. Total program year pre-discount amount (23e + 23h): \$201,500.00	
23j. % discount (from Block 4): 90	
23k. Funding Commitment Request (23i x 23j): \$181,350.00	

FRN: 1002895 FCDL Date: 03/30/2004	
11. Category of Service: Internal Connections	12. 470 Application Number: 194690000445511
13. SPIN: 143025918	14. Service Provider Name: RGC and Associates, Inc.
15. Contract Number: Cabling	16. Billing Account Number:
17. Allowable Contract Date: 01/17/2003	18. Contract Award Date: 02/05/2003
19a. Service Start Date: 07/01/2003	19b. Service End Date:
20. Contract Expiration Date: 06/30/2004	
21. Attachment #: LAN	22. Block 4 Entity Number: 226729
23a. Monthly Charges: \$.00	23b. Ineligible monthly amt.: \$.00
23c. Eligible monthly amt.: \$0.00	23d. Number of months of service: 12
23e. Annual pre-discount amount for eligible recurring charges (23c x 23d): \$0.00	

EXHIBIT - B

23f. Annual non-recurring (one-time) charges: 216575.63	23g. Ineligible non-recurring amt.: 0
23h. Annual pre-discount amount for eligible non-recurring charges (23f - 23g): \$216,575.63	
23i. Total program year pre-discount amount (23e + 23h): \$216,575.63	
23j. % discount (from Block 4): 90	
23k. Funding Commitment Request (23i x 23j): \$194,918.07	

FRN: 1002912 FCDL Date: 03/30/2004	
11. Category of Service: Internal Connections	12. 470 Application Number: 194690000445511
13. SPIN: 143025918	14. Service Provider Name: RGC and Associates, Inc.
15. Contract Number: Server	16. Billing Account Number:
17. Allowable Contract Date: 01/17/2003	18. Contract Award Date: 02/05/2003
19a. Service Start Date: 07/01/2003	19b. Service End Date:
20. Contract Expiration Date: 06/30/2004	
21. Attachment #: S	22. Block 4 Entity Number: 226729
23a. Monthly Charges: \$.00	23b. Ineligible monthly amt.: \$.00
23c. Eligible monthly amt.: \$0.00	23d. Number of months of service: 12
23e. Annual pre-discount amount for eligible recurring charges (23c x 23d): \$0.00	
23f. Annual non-recurring (one-time) charges: 181277.54	23g. Ineligible non-recurring amt.: 49616.47
23h. Annual pre-discount amount for eligible non-recurring charges (23f - 23g): \$131,661.07	
23i. Total program year pre-discount amount (23e + 23h): \$131,661.07	
23j. % discount (from Block 4): 90	
23k. Funding Commitment Request (23i x 23j): \$118,494.96	

Block 6: Certifications and Signature

24a. Schools: Y
24b. Libraries or Library Consortia: N

26a. Individual Technology Plan: Y
26b. Higher-Level Technology Plan(s): N
26c. No Technology Plan Needed:

27a. Approved Technology Plan(s): N
27b. State Approved Technology Plan: Y
27c. No Technology Plan Needed:

[<< Previous](#)



Schools and Libraries Program

Notification of Commitment Adjustment Letter

Funding Year 2003: July 1, 2003 - June 30, 2004

June 16, 2017

Arturo Suarez
POSITIVE SOLUTIONS CHARTER SCHOOL
1325 N FLORES, SUITE 100
SAN ANTONIO, TX 78212

Re: Form 471 Application Number:	367995
Funding Year:	2003
Applicant's Form Identifier:	POSSOLYR6#2
Billed Entity Number:	226729
FCC Registration Number:	0012546479
SPIN:	143025918
Service Provider Name:	RGC and Associates, Inc.
Service Provider Contact Person:	Ronald Clontz

Our routine review of Schools and Libraries Program (SLP) funding commitments has revealed certain applications where funds were committed in violation of SLP rules.

In order to be sure that no funds are used in violation of SLP rules, the Universal Service Administrative Company (USAC) must now adjust your overall funding commitment. The purpose of this letter is to make the required adjustments to your funding commitment, and to give you an opportunity to appeal this decision. USAC has determined the applicant is responsible for all or some of the violations. Therefore, the applicant is responsible to repay all or some of the funds disbursed in error (if any).

This is NOT a bill. If recovery of disbursed funds is required, the next step in the recovery process is for USAC to issue you a Demand Payment Letter. The balance of the debt will be due within 30 days of that letter. Failure to pay the debt within 30 days from the date of the Demand Payment Letter could result in interest, late payment fees, administrative charges and implementation of the "Red Light Rule." The FCC's Red Light Rule requires USAC to dismiss pending FCC Form 471 applications if the entity responsible for paying the outstanding debt has not paid the debt, or otherwise made satisfactory arrangements to pay the debt within 30 days of the notice provided by USAC. For more information on the Red Light Rule, please see <https://www.fcc.gov/encyclopedia/red-light-frequently-asked-questions>.

EXHIBIT - C

TO APPEAL THIS DECISION:

If you wish to appeal the Commitment Adjustment Decision indicated in this letter to USAC, your appeal must be received or postmarked within 60 days of the date of this letter. Failure to meet this requirement will result in automatic dismissal of your appeal. In your letter of appeal:

1. Include the name, address, telephone number, fax number, and email address (if available) for the person who can most readily discuss this appeal with us.
2. State outright that your letter is an appeal. Identify the date of the Notification of Commitment Adjustment Letter and the Funding Request Number(s) (FRNs) you are appealing. Your letter of appeal must include the
 - Billed Entity Name,
 - Form 471 Application Number,
 - Billed Entity Number, and
 - FCC Registration Number (FCC RN) from the top of your letter.
3. When explaining your appeal, copy the language or text from the Notification of Commitment Adjustment Letter that is the subject of your appeal to allow USAC to more readily understand your appeal and respond appropriately. Please keep your letter to the point, and provide documentation to support your appeal. Be sure to keep a copy of your entire appeal including any correspondence and documentation.
4. If you are an applicant, please provide a copy of your appeal to the service provider(s) affected by USAC's decision. If you are a service provider, please provide a copy of your appeal to the applicant(s) affected by USAC's decision.
5. Provide an authorized signature on your letter of appeal.

We strongly recommend that you use one of the electronic filing options. To submit your appeal to USAC by email, email your appeal to appeals@sl.universalservice.org or submit your appeal electronically by using the "Submit a Question" feature on the USAC website. USAC will automatically reply to incoming emails to confirm receipt.

To submit your appeal to us by fax, fax your appeal to (973) 599-6542.

To submit your appeal to us on paper, send your appeal to:

Letter of Appeal
Schools and Libraries Program - Correspondence Unit
30 Lanidex Plaza West
PO Box 685
Parsippany, NJ 07054-0685

For more information on submitting an appeal to USAC, see "Appeals" in the "Schools and Libraries" section of the USAC website.

EXHIBIT - C

FUNDING COMMITMENT ADJUSTMENT REPORT

On the pages following this letter, we have provided a Funding Commitment Adjustment Report (Report) for the Form 471 application cited above. The enclosed Report includes the Funding Request Number(s) from your application for which adjustments are necessary. See the "Guide to USAC Letters" posted at <http://www.usac.org/sl/tools/samples.aspx> for more information on each of the fields in the Report. USAC is also sending this information to your service provider(s) for informational purposes. If USAC has determined the service provider is also responsible for any rule violation on the FRN(s), a separate letter will be sent to the service provider detailing the necessary service provider action.

Note that if the Funds Disbursed to Date amount is less than the Adjusted Funding Commitment amount, USAC will continue to process properly filed invoices up to the Adjusted Funding Commitment amount. Review the Funding Commitment Adjustment Explanation in the attached Report for an explanation of the reduction to the commitment(s). Please ensure that any invoices that you or your service provider(s) submits to USAC are consistent with SLP rules as indicated in the Funding Commitment Adjustment Explanation. If the Funds Disbursed to Date amount exceeds your Adjusted Funding Commitment amount, USAC will have to recover some or all of the disbursed funds. The Report explains the exact amount (if any) the applicant is responsible for repaying.

Schools and Libraries Program
Universal Services Administrative Company

cc: Ronald Clontz
RGC and Associates, Inc.

EXHIBIT - C

**Funding Commitment Adjustment Report for
Form 471 Application Number: 367995**

Funding Request Number:	1002895
Services Ordered:	INTERNAL CONNECTIONS
SPIN:	143025918
Service Provider Name:	RGC and Associates, Inc.
Contract Number:	Cabling
Billing Account Number:	
Site Identifier:	226729
Original Funding Commitment:	\$194,918.07
Commitment Adjustment Amount:	\$194,918.07
Adjusted Funding Commitment:	\$0.00
Funds Disbursed to Date	\$161,154.39
Funds to be Recovered from Applicant:	\$161,154.39
Funding Commitment Adjustment Explanation:	

After a thorough investigation, it has been determined that this funding commitment must be rescinded in full. During the course of review, it was determined that the funds were erroneously committed for the funding request 1002895, which was not justified as cost effective. The FCC rules require that, in selecting the service provider, the applicant must select the most cost effective service or equipment offering, with price being the primary factor, which will result in it being the most effective means of meeting educational needs and technology plan goals. Additionally, the applicants technology plans for requested services should be based on an assessment of their reasonable needs. Applicants that request services that are beyond their reasonable needs and thus not cost effective have violated the above rules. Since FRN 1002895 exceeded the applicants reasonable needs, this funding commitment is rescinded in full and SLD will seek recovery of any improperly disbursed funds from the applicant.



Schulman,
Lopez, Hoffer
& Adelstein, LLP

517 SOLEDAD STREET
SAN ANTONIO, TEXAS 78205-1508
TELEPHONE: (210) 538-5385 FACSIMILE: (210) 538-5384
WWW.SLH-LAW.COM & WWW.K12LAW.COM

ROBERT A. SCHULMAN
RSCHULMAN@SLH-LAW.COM

ATTORNEYS AND COUNSELORS FOR TEXAS PUBLIC SCHOOLS AND LOCAL GOVERNMENT

August 15, 2017

By Certified Mail, Return Receipt
Requested No. 7016 1970 0000 9112 3210

Letter of Appeal
Schools and Libraries Program – Correspondence Unit
30 Lanidex Plaza West
P. O. Box 685
Parsippany, NJ 07054-0685

RE: Appeal of Notification of Commitment Adjustment Letter

Billed Entity Name	San Antonio Positive Solutions, Inc. DBA Positive Solutions Charter School
Billed Entity Number	226729
Contact Person	Robert A. Schulman, Attorney-at-Law
Contract Information: Mailing Address Phone Number Fax Number Email	517 Soledad Street, San Antonio, TX 78205 (210) 538-5385 (210) 538-5384 RSchulman@SLH-Law.com
Service Provider	RGC and Associates, Inc.
Funding Year	2003
Application Type and Application Number	Form 471, Application No. 367995
Funding Request Number	1002895
FCC Registration Number	0012546479
Appeal Reason	Determination to fully rescind funding commitment falls outside of record retention period.

August 15, 2017
Schools and Libraries Program – Correspondence Unit
RE: Appeal of Notification of Commitment Adjustment Letter, Page 2

To Whom It May Concern:

We are in receipt of the Notification of Commitment Adjustment Letter dated June 16, 2017 (“Notice”), issued by the School and Libraries Program (“SLP”) of the Universal Service Administrative Company (“USAC”) to our client, San Antonio Positive Solutions, Inc. DBA Positive Solutions Charter School (“SAPS”). On behalf of SAPS, we hereby submit this appeal of the Notice to USAC.

Reason for Appeal

The USAC Notice informed SAPS of its decision to fully rescind the funding commitment. The reason offered was an SLP review that “determined that the funds were erroneously committed for the funding request 1002895....” as “... not justified as cost effective.” The Notice did not identify specific rules supporting this determination except to state that SAPS was required to “select the most cost effective service or equipment offering, with price being the primary factor, which will result in it being the most effective means of meeting educational needs and technology goals.”

In that the applicable rule was not identified, we surmise that USAC alleges that SAPS failed to adhere to 47 CFR §§ 54.504 and 54.511, the CFRs in effect at the time that SAPS received its Funding Commitment Decision Letter dated March 30, 2004 (“Funding Letter”).

It is SAPS’ position in this appeal that it did fully comply with 47 CFR §§ 54.504 and 54.511. Notably, in response to SAPS’ solicited bids in 2003, it received a response from only one vendor, the selected vendor, RGC and Associates, Inc. Please refer to Exhibits A and B, notarized Affidavits of Arturo Suarez and Pamela Solitaire, respectively. As no other responsive bid was received, RGC, an E-rate qualified vendor, was the one and only “cost effective” vendor. SAPS did not retain these 13-year-old records, specifically, the vendor solicitation or bidder matrix (if there was a matrix) related to the statements of Mr. Suarez and Ms. Solitaire.

Significantly, at 47 CFR § 54.516(a), in effect at the time that SAPS received its Funding Letter, we find the following requirement:

Recordkeeping requirements. Schools and libraries shall be required to maintain for their purchases of telecommunications and other supported services at discounted rates the kind of procurement records that they maintain for other purchases.

The Funding Letter further stated:

RETAIN DOCUMENTATION – Applicants and service providers must retain documentation, including but not limited to, documents showing:

- compliance with all applicable competitive bidding requirements,

- products and/or services delivered (e.g., customer bills detailing make, model and serial number),
- resources necessary to make effective use of E-rate discounts, including the purchase of equipment such as workstations not eligible for support,
- the specific location of each item of E-rate funded equipment, and
- the applicant has paid the non-discount portion.

These documents must be retained and available for review for 5 years. (emphasis added).

Subsequent to the Funding Letter came more current administrative law, where we find the following rule at 47 CFR § 54.516(a) in effect during the period September 13, 2004 through August 18, 2014:

Recordkeeping requirements—(1) Schools and libraries. Schools and libraries shall retain all documents related to the application for, receipt, and delivery of discounted telecommunications and other supported services for at least 5 years after the last day of service delivered in a particular Funding Year. Any other document that demonstrates compliance with the statutory or regulatory requirements for the schools and libraries mechanism shall be retained as well. Schools and libraries shall maintain asset and inventory records of equipment purchased as components of supported internal connections services sufficient to verify the actual location of such equipment *for a period of five years after purchase.* (emphasis added).

Thus, under the record retention requirements in effect during the period of time preceding SLP's Notice, SAPS was not required to, nor did it retain records of its solicitation for proposals responsive to the subject matter of the Notice upon which USAC's determination is based.

Additionally, in its Fifth Report and Order adopted on August 4, 2004 ("Order"), the Federal Communications Commission ("FCC") proffered the following policy:

32. *Administrative Limitations Period for Audits or Other Investigations by the Commission or USAC.* We believe that some limitation on the timeframe for audits or other investigations is desirable in order to provide beneficiaries with certainty and closure in the E-rate applications and funding processes. For administrative efficiency, the time frame for such inquiry should match the record retention requirements and, similarly, should go into effect for Funding Year 2004. *Accordingly, we announce our policy that we will initiate and complete any inquiries to determine whether or not statutory or rule violations exist within a five year period after final delivery of service for a specific funding year.* We note that USAC and the Commission have several means of determining whether a violation has occurred, including reviewing the application, post application year auditing, invoice review and investigations. Under the policy we adopt today, USAC and the Commission shall carry out any audit or investigation

August 15, 2017
Schools and Libraries Program – Correspondence Unit
RE: Appeal of Notification of Commitment Adjustment Letter, Page 4


that may lead to discovery of any violation of the statute or a rule within five years of the final delivery of service for a specific funding year.¹

33. In the E-rate context, disbursements often occur for a period up to two years beyond the funding year. Moreover, audit work typically is not performed until after the disbursement cycle has been completed. *For consistency, our policy for audits and other investigations mirrors the time that beneficiaries are required to retain documents pursuant to the rule adopted in this order. We believe that conducting inquiries within five years strikes an appropriate balance between preserving the Commission's fiduciary duty to protect the fund against waste, fraud and abuse and the beneficiaries' need for certainty and closure in their E-rate application processes.* (emphasis added).

Commensurately, the FCC adopted an amendment to 47 CFR § 54.516(a) limiting the required retention of records to five (5) years. In issuing its Notice, USAC is essentially setting aside the FCC's Order regarding the "limitation on the timeframe for audits or other investigations." Accordingly, pursuant to the best recollection of the SAPS administrators in charge of the matter reviewed in 2004, and to ensure consistency with the FCC's policy, we respectfully submit that USAC must reconsider and retract its decision to "fully rescind the funding commitment."

Yours truly,

**SCHULMAN, LOPEZ,
HOFFER & ADELSTEIN, LLP**



Robert A. Schulman

¹ As observed in the Fifth Report and Order issued by the Federal Communications Commission, the limitation period established here relates to the time period within which one must bring an action to establish a debt due to a violation of E-rate program rules or the statutory provisions. In contrast, the DCIA statute of limitations relates to the time period within which the FCC must act to collect the debt once established. We note that this administrative limitation period is distinct from the DCIA statute of limitations, but it is offered here to demonstrate the policy intentions of the authorities on the issue of limitations and the retention of records necessary to bring and defend claims or charges. See Footnote 55 in the Fifth Report and Order.

August 15, 2017

Schools and Libraries Program – Correspondence Unit

RE: Appeal of Notification of Commitment Adjustment Letter, Page 5

RAS:cap

Enclosures

cc: Ronald Clontz, President, RGC and Associates, Inc.
(Letter Only)

Arturo Suarez, Director, Positive Solutions Charter School
(Letter and Enclosures)

STATE OF TEXAS

COUNTY OF BEXAR

AFFIDAVIT BY ARTURO SUAREZ

Before me, the undersigned authority, on this day personally appeared Arturo B. Suarez, who being by me first duly sworn, on oath stated as follows:

My name is Arturo B. Suarez. I am over the age of 18, am of sound mind and capable of making this affidavit. I understand that if I lie in this affidavit, I may be criminally responsible.

I am the Director/Superintendent of San Antonio Positive Solutions, Inc., doing business as Positive Solutions Charter School ("SAPS"), 1325 North Flores, San Antonio, Texas 78212. I have been Director/Superintendent of SAPS since November 1, 1993. I was the Director/Superintendent of SAPS in 2003, when a Form 470, Description of Services Requested and Certification Form, was submitted by PSCS for a Network Electronics and Cabling Project ("the project") for SAPS, FRN 002895. The project was undertaken because of the need to improve technology for the benefit of both students and staff.

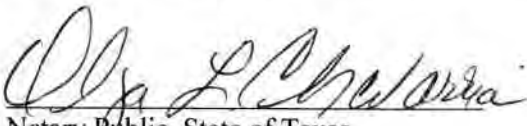
On or about February 5, 2003, SAPS filed a Form 471, Description of Services Ordered and Certification Form, for E-rate discount rates with the Universal Service Administrative Company ("USAC") to cover the costs associated with the project, identified as "Internal Connections - Cabling," which included site survey work and the installation/configuration of network electronics and cabling. In March 2004, the USAC approved SAPS' application and allocated funding for the project totaling \$494,763.03. A proposal for the project was issued on January 31, 2003.

Records of these 13year-old transactions were either lost or destroyed, but it is my best recollection that in response to our request for vendor responses to a proposal for site survey and installation/configuration of network electronics and cabling, only one vendor responded. That proposal was from the selected vendor, RGC and Associates, Inc. We did maintain, and I attach to this affidavit, that one proposal as Exhibit A-1.

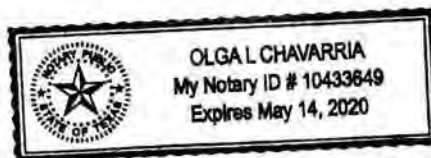
RGC and Associates, Inc. performed as contracted and was paid for its services Funding Year 2003 July 1, 2003 through June 30, 2004).


Arturo B. Suarez

Sworn to and subscribed before me on August 15, 2017, by Arturo B. Suarez, who is personally known to me.


Notary Public, State of Texas

My commission expires May 14, 2020

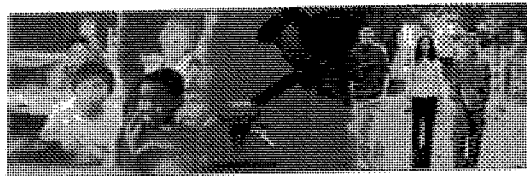


RGC and Associates, Inc. (RGC)

Statement of Work

for

NETWORK ELECTRONICS AND CABLING PROJECT



Prepared for
San Antonio Positive Solutions, Inc.
(Positive Solutions, Inc.)

January 31, 2003

The information in this Statement of Work shall not be disclosed outside Positive Solutions and shall not be duplicated, used or disclosed in whole or in part for any purpose other than to evaluate the proposal, provided that if a contract is awarded to RGC as a result of or in connection with the submission of this Statement of Work, Positive Solutions shall have the right to duplicate, use or disclose the information to the extent provided by the contract. This restriction does not limit the right of Positive Solutions to use information contained in the Statement of Work if it is obtained from another source without restriction.

Table Contents

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1. STATEMENT OF WORK

Statement of Work – Introduction

This section describes the Services that RGC and Associates will provide under the terms of the RGC Customer Agreement (*Agreement*) and this Statement of Work (SOW). Specifically, RGC will provide Positive Solutions, Inc. (PSI) with a set of customized e-ratable services, with supporting documentation. The details of the Services to be provided are described in this section. These Services will be provided at all eligible PSI locations in San Antonio, Texas.

Scope of Work to be accomplished by RGC includes the procurement, installation and testing of a network infrastructure that is capable of supporting PSI's educational technology requirements.

This Statement of Work is comprised of the following sections:

1. Assumptions
2. RGC Responsibilities
3. PSI Responsibilities
4. Deliverable Materials - Documentation
5. Project Schedule
6. Completion Criteria
7. Warranty
8. Charges

The following are incorporated in and made part of this Statement of Work:

- ◆ Appendix A, Deliverable Guidelines / Documentation
- ◆ Appendix B, Project Change Control Procedure
- ◆ Appendix C, Equipment
- ◆ Appendix D, Wiring Installation Standards
- ◆ Appendix E, Cabling Installation and Testing Specifications
- ◆ Appendix F, Signature Page

Changes to this Statement of Work will be processed in accordance with the procedure described in Appendix B, "Project Change Control Procedure." The investigation and the implementation of changes may result in modifications to the Schedule, Charges or other terms of this Statement of Work.

This proposal will expire December 31, 2004 unless this date is extended by RGC in writing.

1.1 Assumptions

This Statement of Work and RGC's estimates to perform the Statement of Work are based on the following assumptions. Deviations that arise during the proposed project will be managed through the procedure described in Appendix B, "Project Change Control Procedure."

The networking system environment consists of PSI's eligible sites.

1. No sites affected by RGC's performance under this SOW have been declared as "Historical Buildings."
2. RGC will provide up to 90 cable drops, which includes moves, adds and changes.
3. PSI eligible sites do not exceed one (1) location.
4. PSI school sites will be cabled and have closets prepared prior to the installation of network equipment.
5. PSI personnel who will be assigned to this project will have the technical skills necessary to participate in the project.
6. PSI and user personnel will be available as described in section 3.0, "PSI Responsibilities."
7. PSI will provide a current and accurate listing of each school site, to include network electronics hardware and software installed, and the number of MDF and IDF wiring closets.
8. Work under this Statement of Work will be performed at sites within PSI and will not require travel to school sites outside district boundaries.
9. Only those components specified in this SOW are to be supplied and installed by RGC. Additional components can be specified via the Project Change Control Procedure detailed in Appendix B.
10. Services to configure network electronics in each MDF or IDF will be performed at one time.
11. Work under this contract will be performed during school hours (7:00 a.m. and 4:00 p.m.) unless otherwise mutually agreed by RGC and PSI.
12. Work to be performed at specific sites will be mutually agreed and scheduled at least ten (10) business days prior to the commencement of the work.
13. RGC may use subcontractors in the performance of this SOW.
14. RGC and our subcontractor(s) will have unlimited, unrestricted access to all buildings. Any security requirements inclusive of guards, security codes/access codes, lighting and internal access and/or central monitoring are the responsibility of PSI.
15. RGC will be provided with access badges, keys and combinations or escorts to perform the work described in this SOW. Any delay encountered due to unavailability of buildings may result in additional charges being incurred by PSI. If this situation arises, it will be addressed via the Project Change Control Procedure detailed in Appendix B.
16. Adequate wall space/wiring closet space will be made available to RGC for the purpose of placing MDF/IDF products and equipment installed under this agreement. It is understood by RGC and PSI that any delay encountered due to insufficient wall space/insufficient wiring closet space may result in time delays and additional charges incurred by PSI. If this situation arises, it will be addressed via the Project Change Control Procedure detailed in Appendix B.
17. It is understood by PSI and RGC that this SOW is based upon the Start Date provided below. In the event this date is not achieved, RGC reserves the right to extend the project End Date on a working day for working day basis, and as mutually agreed by RGC and PSI, via the Project Change Control Procedure detailed in Appendix B.

18. It is understood by PSI and RGC that this SOW and the pricing associated with this SOW are based upon the award of the total proposed SOW described in this document. The work described in this SOW will be performed during one continuous phase.
19. RGC will not order product until after the site survey has been made and the configuration verified and agreed to by PSI.
20. PSI will provide access to the PSI network for support.
21. This Statement of Work applies to eligible buildings identified in FCC Form 471.
22. Delivery of product is dependent upon availability from our vendor(s).
23. All non-RGC products must be approved by RGC's Product Safety Review Board prior to RGC placing your order. If any product does not meet our product safety specifications, RGC will work with you to identify an alternate product. Procurement of an alternate product will occur only upon your approval.
24. Excluded from the Services Charge are items involving, but not limited to; repairs to the Location for correcting existing code deficiencies, painting, asbestos removal, plumbing, heating and ventilation, air conditioning work, etc.

Exclusions from this Statement of Work

1. RGC is not responsible under this SOW for the identification or correction of any existing safety and/or code violations, whether federal, state or local, including but not limited to fire and electrical codes. If RGC should discover any safety and/or code violations during the course of this project, RGC will notify PSI of the problem. RGC will not be required to proceed with its work under this SOW until PSI remedies such violation, nor will RGC be responsible for delays to the work caused by such violation.
2. It is specifically understood by PSI and RGC that all matters relating to detection and/or abatement or removal of asbestos, hazardous waste or other pollutants are beyond the scope of this contract and that RGC shall not be liable for any delay or additional cost incurred as a result of such detections and/or abatement. If asbestos, hazardous waste or other pollutants are uncovered during the course of the work on the contract, then PSI shall be responsible for retaining the experts necessary to remove such asbestos, hazardous waste or pollutants from the site. PSI shall also be responsible for any testing and corresponding with appropriate government authorities.
3. On-going network operations and coordination are not included in this Statement of Work. RGC would be pleased to respond to PSI for the addition of these services.
4. Relocation and testing of existing computers, telecommunications, or CCTV equipment(s) or systems are not required.
5. Removal of existing telecommunications or CCTV cabling is not required.
6. No data Media Converters are being supplied under this Statement of Work.
7. Installation of any hardware, software, and network electronics not specified in this SOW (e.g., workstations, servers, printers, routers, DSUs/CSUs, repeaters, modulators) is the responsibility of PSI. If RGC performs work on these excluded items, it must be done pursuant to a separate purchase order, and a separate SOW or PCR to this SOW.
8. It is understood by PSI and RGC that all matters relating to physical construction of new wiring closets/equipment locations and retrofits for existing wiring

closets/equipment locations, (general construction build out, HVAC, electrical, lighting, construction permits) is the responsibility of PSI.

9. Under the terms of this Statement of Work we are not responsible for 1) your products, 2) a third party's products (including products you license from our subcontractors) or 3) RGC's previously installed Products, ("Other Products") to correctly process or properly exchange accurate date data with the Products or deliverables we provide. We will be relieved of our obligations under this Statement of Work due to the inability of such Other Products to correctly process or properly exchange accurate date data with the Products or deliverables we provide to you.

2. RGC RESPONSIBILITIES

2.1 Project Management

Task Description

The objective of this task is to provide technical direction, maintain project control and establish a framework for project communications, reporting, procedural, and contractual activity for the RGC tasks described.

This task consists of the following activities:

- ◆ Establish and coordinate RGC efforts with the PSI Project Manager.
- ◆ Develop and maintain work plans for the performance of RGC responsibilities.
- ◆ Administer the Change Control Procedures.
- ◆ Schedule and attend regularly scheduled status meetings.
- ◆ Maintain communications and review progress with the PSI Project Manager and team members during status meetings.
- ◆ Prepare and submit written Monthly Status Reports of RGC activities to the PSI Project Manager.

Completion Criteria

This task will be considered complete when the project is complete and the final Monthly Status Report has been delivered to the PSI Project Manager.

Deliverables/Documentation

Monthly Status Reports.

2.2 Perform Site Survey

Description

The objective of this task is to visit PSI locations and perform a site survey. The sub-tasks are:

1. Verify and correct site general information.
2. Identify and document site's special considerations:
 - Site's labor requirements and works restrictions (e.g. union vs. Non-union environments, works hours, access restrictions, special condition or limitations) that may affect the site's rollout.
 - Safety regulations - as may apply from municipalities
 - Site security requirements
 - Any unusual site conditions (e.g., site to be closed in one week)
3. Identify Equipment Room locations and requirements
 - Isolated electrical power circuit availability
 - Heating and air-conditioning
 - True earth ground availability

- - Access security
- Fiber/Telephone circuit connection – DS3, T1, ISDN

Completion

This task will be complete for a site when the site visit is complete and a site survey document for the site is provided to the PSI Project Manager.

Deliverable/Documentation

Site Survey Document

2.3 Installation/Configuration of Network Electronics and Cabling

Description: The objective of this task is to configure and install Three (3), Cisco 2950 Switches, One (1) Cisco 2620 Router, Two Wireless Access Points, and the specified cabling, interconnects, and Configuration of the specified equipment. The Subtasks are:

1. Development of network design – Provide design and component list as part of response to IFB (470)
 - A. Meet with project team to discuss design parameters
 - B. Meet with selected Electronics Manufacturer to help determine new products.
 - C. Determine base component structure
 - D. Determine quantity of UPS' needed to protect all closets
2. Research and identify hardware components that fit hardware design
 - A. Research validity of base component structure
 - B. Research availability of necessary function, capability, and compatibility of recommended base components
 - C. Develop integrated hardware and software components
3. Develop detailed component list to match network design
 - A. Develop estimation criteria to base component numbers on
 - B. Match hardware and software component to estimated numbers to develop final equipment list
4. Survey all schools
 - A. Survey all currently installed hardware to determine current network status
 - B. Survey power in all MC's at each site and in each closet
 - C. Survey physical space in all MC's at each site and in each closet
5. Power designation walkthrough
 - A. Coordinate power designation walkthrough schedule with PSI facilities
 - B. Visit all eligible sites to determine placement of new 20A dedicated power circuits for MC network electronics (as needed)
6. Compilation of all data from Survey

- A. Develop a spreadsheet that shows totals of existing equipment available for trade-in
 - B. Submit equipment list to old Electronics Manufacturer and acquire trade-in amount document
 - C. Compile and submit document for all other survey results
 - D. Assisting in development of SLD submission packet for equipment purchase
 - E. Closet by closet compilation of final network drops to be used in developing school specific final component list
7. Development of closet-by-closet network electronics component list for all eligible sites
- A. Matching hardware and software components defined in the design process to the network drops counts to determine specific product configuration for every closet in every school
 - B. Develop network architecture (i.e. Routing protocols, VLAN development, QOS, IP protocol scheme etc.)
 - C. Develop detailed component configuration parameters
8. Receive, Inventory and Installation of electronic components
- A. Receive, inventory, break out components to match each individual campus and the district data center
 - B. Coordinate delivery and downtime for installation of electronics at each campus
 - C. Remove existing cabling and network electronics in each closet, at each campus as installation is being performed
 - D. Install new electronic components
 - E. Configure each individual electronic component in accordance with the developed configuration parameters
 - F. Patch new electronic components into cable plant – includes installation of wire management
 - G. Interconnect closet to closet communications
 - H. Connect local area network to wide area network
 - I. Test perform aspects of both local and wide area network
9. Asset Tag Management and Documentation
- A. Document all configuration parameters for each installed component
 - B. Document serial numbers, location and asset tags for each installed component
 - C. Document serial numbers and asset tags from each replaced component
 - D. Remove all old electronic components from campus site to staging area
 - E. Separate trade in components from non trade in components
 - F. Facilitate trade in of old components to appropriate manufacturer
 - G. Compile and submit all serial number to appropriate manufacturer to activate warranty coverage
 - H. Compile all documentation and turn over to District the end results (Site Installation Document)

Completion

This task will be complete for each PSI location when RGC delivers the Site Network Installation Document for that location to the PSI Project Manager.

Deliverables/Documentation**Site Network Installation Documentation****2.4 Install and Test Cabling**

Task Description: RGC will install and test cabling in support of the adds, moves, and changes to the cabling plant at PSI per the specifications contained in Appendix D and Appendix E. The sub-tasks are:

- ◆ Provide moves, adds and changes to the existing cable plant. It is understood that moves of cable drops will be to a point closer to the communication closet. The cable drops moved will be tested to verify that they meet specification requirements. Estimated additional drops for moves, adds and changes are 90.
- ◆ Provide cabling connections between the main building at a campus and new buildings, which are not portables or cottages for the purpose of delivering signal to their ICs.
- ◆ Provide cabling to attach designated classrooms moved between campuses as required based on the terms outlined in the contract.
- ◆ Build portable ICs for classrooms moved between campuses as required based on the terms outlined in the contract.
- ◆ Install specified data drops including the installation of a cabinet rack in District computer labs, MCs, and ICs and HC's.
- ◆ Build MCs and ICs facilities as defined in Appendix E.
- ◆ Provide testing for the cabling installed under this SOW as defined in appendix E.
- ◆ Develop "As Built" drawings to document the cabling installation provided - documentation.
- ◆ Compile a Project Cabling Test Book - documentation.

Completion Criteria: This task will be considered complete when RGC delivers one (1) set of "As Built" drawings and one (1) copy of the Project Cabling Test Book to PSI.

Deliverables: Documentation:

- ◆ "As Built" drawings
- ◆ Project Cabling Test Book

3. PSI RESPONSIBILITIES

The responsibilities listed in this section are in addition to those responsibilities specified in the RGC Customer Agreement and are to be provided at no charge to RGC. RGC's performance is predicated upon the following responsibilities being fulfilled by PSI.

3.1 General Responsibilities

- ◆ Assign a Project Manager to represent PSI regarding this contract.
- ◆ Provide full access to all PSI school locations as required under this SOW.
- ◆ Communicate with appropriate PSI personnel of the work to take place and obtain their approval if necessary.
- ◆ Provide floor diagrams of affected campus locations in 8 1/2 x 11 hardcopy format.
- ◆ Provide all necessary closet and/or equipment areas for the location of network electronics, racks and cabinets as described in this SOW.
- ◆ Provide all necessary power and environmental support to accommodate all RGC and PSI provided equipment.
- ◆ PSI is responsible for all permits and associated fees.
- ◆ Provide all necessary configuration information to enable RGC's network equipment procurement and installation activities under this SOW.
- ◆ Inform RGC of any change in network requirements in accordance with the RGC Project Change Control Procedure in Appendix B.

3.2 Project Management

Prior to the start of this Statement of Work under the Agreement, PSI will designate a person, called the PSI Project Manager, to whom RGC communications will be addressed and who has the authority to act for PSI in all aspects of the contract.

The PSI Project Manager's responsibilities include:

1. Provide liaison between all project participants.
2. Manage the Project Change Control Procedure for PSI.
3. Attend project status meetings.
4. Obtain and provide information, data, decisions and approvals, within two (2) working days of RGC's request unless PSI and RGC agree to an extended response time.
5. Help resolve project issues and escalate issues within the PSI organization, as necessary.
6. Permit posting of any notifications required by applicable law for Services provided at your locations.
7. Provide required conduit and trenching within the project schedule timeframe should PSI require RGC to utilize buried or underground conduit that does not currently exist.
8. Provide personnel (if PSI desires) to witness and authorize standard testing of each school building as the installation/testing activities are completed.

9. Locate and mark all water, gas, electrical or any other underground pipes or cabling in the path required for the trenching for the fiber connection, before trenching can be started.

3.3 Space, Facilities and Utilities

Provide centralized and secure staging work area and facilities for performing the necessary staging and configuration of the RGC provided equipment.

Provide installation facilities for RGC provided equipment. PSI is responsible for space allocation, HVAC and electrical considerations. PSI is responsible for providing the power, light and water necessary for the performance of this project.

RGC and our subcontractor will have 24x7 access to all buildings to perform the RGC Responsibilities specified in this Statement of Work. Any security requirements inclusive of guard, security codes/access codes, lighting and internal access and/or central monitoring are the responsibility of PSI.

Adequate space will be made available for the installation of all products related to this project.

3.4 Security and Laws

PSI will identify and make the interpretation of any applicable federal, state, and local laws, regulations and statutes to see that the services provided by RGC comply.

4. DELIVERABLES / DOCUMENTATION

The following items will be delivered to PSI under this Statement of Work. See Appendix A, "Deliverable Guidelines" for a description of each deliverable.

- ◆ Status Report
- ◆ Site Survey Documentation
- ◆ Site Network Installation Documentation
- ◆ "As-built" drawings
- ◆ Project Cabling Test Results

5. PROJECT SCHEDULE

- ◆ Start Date – July 1, 2003
- ◆ End Date – June 30, 2004

5.1 Project Delays

RGC will not be responsible for delays or additional requirements imposed by any government agencies or unforeseen conditions such as delays in the progress of the project by your acts or neglect or the acts or neglect of your employees or separate contractors employed by you, by changes ordered in the project not caused by the fault of RGC, by labor disputes, fire, unusual delays in transportation, adverse weather conditions not reasonably anticipatable, unavoidable casualties or other causes beyond RGC's control or by another cause which you and RGC agree is justifiable.

6. COMPLETION CRITERIA

RGC shall have fulfilled its obligations under this Statement of Work when any one of the following occurs:

- ◆ RGC accomplishes the tasks described in section 2.0, "RGC Responsibilities,"
- ◆ Either of us terminates the Project in accordance with the provisions of the RGC Customer Agreement and this SOW.
- ◆ The End Date for the contract is reached.

7. PROJECT WARRANTY

RGC does not guarantee or warrant, express or implied, the materials used in workmanship of supplies, materials, equipment or machinery manufactured by third parties and furnished and installed under this Agreement. RGC shall endeavor to obtain from all vendors and suppliers and assign to Owner the customary warranties and guaranties of such vendors and suppliers with respect thereto. RGC shall render reasonable assistance to Owner when requested in order to enable the Owner to enforce such warranties and guaranties by third party manufacturers and suppliers.

There are no other warranties, express or implied, including but not limited to the implied warranties of merchantability and fitness for a particular purpose.

8. CHARGES

RGC will submit invoices per the payment schedule as stated below.

The Services Charge stated here represents the maximum allowable charges for all services that may be provided under this Statement of Work. RGC understands that the decision to implement this project is contingent upon award to Positive Solutions Inc. (PSI) of funding under the E-rate program. RGC will not begin work on this project without written notification from PSI that funding has been approved and that work should begin. If such notification has not been received by December 31, 2003, at RGC's option, RGC may terminate this Statement of Work or implement an extension of this Statement of Work, as well as changes in pricing or other terms and conditions as may be required, via the Project Change Control Procedure outlined in Appendix B.

Or this SOW may be extended upon mutual agreement between PSI and RGC as defined in the section titled Project Change Control Procedure. Should PSI not receive the requested funding for E-rate 6, PSI may terminate the SOW without further obligation. Should PSI receive only partial funding, RGC will work with PSI to incorporate those portions of this SOW that can be accomplished based upon available funding. It is specifically understood by RGC and PSI that no E-rate 6 activity will occur prior to RGC's receipt from PSI of written authorization to precede. It is understood by PSI and RGC that, should full or partial funding be received by PSI, and should PSI decide to initiate work on the project, that PSI will use this SOW and RGC as designated Solution Provider, to accomplish the agreed to scope of effort under the E-Rate program.

It is understood by PSI and RGC that this SOW and its associated pricing is based upon RGC receiving written approval from PSI to proceed with E-rate 6 no later than December 31, 2003. In the event this approval is not received by this date, RGC reserves the right to restructure the SOW, with PSI's concurrence, to incorporate only those tasks that can be successfully completed by RGC prior to June 30, 2004. This proposal will remain valid through December 31, 2003

Equipment Prices, License Fees and Service Charges:

Total Materials Price:	\$ 74,809.04
<u>Charges for Network Installation/Configuration</u>	<u>\$141,837.50</u>

TOTAL	\$ 216,646.54
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E-Rate Invoicing: Prior to commencing work, RGC requires 1) a fully signed contract signature sheet; 2) a P.O. in the amount that the E-Rate program is not funding (e.g. non-discounted portion of the eligible costs plus the non-eligible costs); 3) a copy of the USAC's Funding Commitment Decision Letter, and; 4) submittal of USAC Form 486.

As a service to PSI, RGC will perform dual billing per E-Rate terms and conditions. First, RGC will invoice PSI, as product is delivered to the PSI provided RGC staging site and as work is completed, for the 'non-discounted' portion of the ELIGIBLE items and any non-eligible items. Secondly, under separate invoice, RGC will invoice the E-Rate FCC Snowe-Rockefeller administration for the remaining discounted portion of the ELIGIBLE items. Payment is due as specified in the invoice.

Should PSI not receive the requested funding for E-rate or should PSI receive only partial funding, RGC will work with PSI to incorporate those portions of E-rate funding

that can be accomplished based upon available funding, after the Board has accepted the E-Rate funding.

Please note that although RGC will bill PSI for the 'non-discounted' portion and other charges not eligible under the E-Rate program, PSI assumes responsibility for the entire contract services charge, should PSI not inform RGC of any changes in the funding status or work effort. Notwithstanding any other provision, PSI has the right to terminate this agreement for business reasons if written termination notice is given to RGC prior to any work being performed or service provided.

Excluded from the Services Charge are items involving, but not limited to; repairs to the Location for correcting existing code deficiencies, painting, asbestos removal, plumbing, heating and ventilation, air conditioning work, etc

RGC Service Provider Identification Number (SPIN): 143025918

RGC reserves a purchase money security interest in the Machines provided until RGC receives payment of the amounts due. You authorize RGC to prepare and file a financing statement to perfect its purchase money security interest in all Machines you order and RGC delivers under this Statement of Work.

RGC terms of payment are Net 30 days.

Appendix A: DELIVERABLE / DOCUMENTATION GUIDELINES

1. Monthly Status Reports

Purpose: RGC will provide Status Reports Monthly during the project to describe the activities, which took place during that period. Significant accomplishments, milestones and problems will be described.

Delivery: One (1) hard copy will be delivered to the PSI Project Manager, within five (5) working days following the reporting period.

Content: The report will consist of the following, as appropriate:

- Activities performed during the reporting period
- Activities planned for the next reporting period
- Project change control summary
- Problems, concerns, and recommendations
- Billing summary

2. Site Survey Document—Documentation

Purpose

RGC will provide a Site Survey Document for PSI location detailing locations, requirements, and special considerations.

Delivery

One (1) hard copy of the document and on (1) electronic copy will be delivered to the PSI Project Manager.

Content

The report will consist of the following, as appropriate:

- Site general information
- Site special considerations
- Equipment room locations and requirements

3. Site Network Installation Document

Purpose

RGC will provide a Network Installation Document summarizing the installation of equipment at a PSI location as specified in Appendix C.

Delivery

One (1) hard copy of the document and one (1) electronic copy will be delivered to the PSI Project Manager for each location where Network equipment is installed under this SOW.

Content

The report will consist of the following, as appropriate:

- Equipment List with Serial Numbers
- Configuration Information
- Physical location information

4. "As-built" Drawings

Purpose:

RGC will provide 8 1/2" x 11" "As-built" drawings, marked-up plan views showing drop and MC/IC equipment locations.

Delivery:

One (1) hard copy will be delivered to the PSI Project Manager within thirty, (30) working days following the completion of the project.

Content, as appropriate:

The report will show drop and MC/IC equipment locations.

5. Project Cabling Test Results

Purpose:

RGC will deliver one (1) copy of the Project Cabling Test Results. This will be a copy of the Cable Test Forms for Category 5e data cabling and fiber optic cabling.

Delivery:

One (1) hard copy will be delivered to the PSI Project Manager within thirty, (30) days of project completion.

Content:

The report will show cable tests results for all cable installed on this project.

Appendix B: PROJECT CHANGE CONTROL PROCEDURE

When both of us agree to a change in this Statement of Work, a written description of the agreed change (called a "Change Authorization") will be prepared, which both parties must sign. The Change Authorization will describe the change, the rationale for the change, and specify any change in the charges, schedule or other terms. Depending on the extent and complexity of the requested changes, RGC may charge for the effort required to analyze it. When charges are necessary in order to analyze a change, RGC will provide a written estimate and begin the analysis on written authorization. The terms of a mutually agreed upon Change Authorization will prevail over those of this Statement of Work or any previous Change Authorization.

Appendix C: EQUIPMENT LIST

Equipment:

RGC will provide the following internal connections equipment and associated documentation in accordance with the terms and conditions of this SOW:

QTY	DESCRIPTION/BRAND	Make/Model	Unit Quote	Extended Quote
	Cabling Equipment			
1	Rack - Hub Building	Elite 525061-1F	\$ 1,357.00	\$ 1,357.00
1	Router 8 port	Cisco 2620XM	\$ 9,599.30	\$ 9,599.30
3	Switches	Cisco 2950GE-SX	\$ 4,707.02	\$ 14,121.06
3	48 port Patch panels		\$ 236.00	\$ 708.00
90	Faceplates		\$ 1.30	\$ 116.82
90	Jacks		\$ 3.54	\$ 318.60
90	Box eliminators		\$ 1.18	\$ 106.20
450	RaceWay		\$ 2.36	\$ 1,062.00
154	Patch cables 3 ft		\$ 1.77	\$ 272.58
80	Patch cables 15 ft		\$ 3.54	\$ 283.20
11	Wire manager		\$ 35.40	\$ 389.40
2	Shelf		\$ 129.80	\$ 259.60
1	DSU/CSU	DDS/T1 MT102A-R2	\$ 2,205.42	\$ 2,205.42
1	UPS	IBM 37L-6861	\$ 4,484.00	\$ 4,484.00
1	Power Strip		\$ 70.80	\$ 70.80
450	Interduct		\$ 1.77	\$ 796.50
36	Couplings		\$ 1.65	\$ 59.47
19	Cat5e		\$ 199.42	\$ 3,788.98
1	Ties/Raps/Plates		\$ 2,950.00	\$ 2,950.00
		Series 8000		
3	Wireless Access & Cable	LW8001A/LW0050A-R2	\$ 10,620.00	\$ 31,860.00
	Network Equipment Install Services			
440	Installation		\$ 166.25	\$ 73,150.00
210	Configuration		\$ 140.00	\$ 29,400.00
150	Maintenance		\$ 140.00	\$ 21,000.00
110	Project Management		\$ 166.25	\$ 18,287.50

Non-Eligible Components

QTY	DESCRIPTION/BRAND	Unit Quote	Extended Quote
1	Firewall	\$ 15,990.18	\$ 15,990.18
1	Anti-Virus Appliance	\$ 4,714.10	\$ 4,714.10

Appendix D: WIRING INSTALLATION STANDARDS

Telecommunications wiring standards and practices

Foreword

The purpose of this section is to set forth standards for the installation of low voltage wiring typically used for telephone or data communications in any and all facilities of the PSI. This document is intended to establish acceptable installation practices in all PSI buildings and should be used as a contract addendum for all projects done by contract involving such wiring. As such, this document binds any contractor awarded work involving low voltage wiring to conform to the specifications herein.

Specifications

Placement/appearance

- ◆ All wiring should be placed in ceilings and walls, with only a jack (or other connector) on a faceplate establishing a connection point in all classrooms, offices, and other public areas. Data communications jacks are normally RJ45 and fiber optic cable terminations are normally ST connectors (either crimped or UV curved). These jacks and terminators will reside preferably on the same faceplate in a classroom or office. External control devices, which would normally be placed on interior surfaces in a commercial building, must conform to UL standards and be listed by UL.
- ◆ Inside wiring closets, data connections can be made to patch panels, or (if the specifications so state) to surface mount faceplates with exposed wiring, with said wiring being bundled, and appropriately labeled. Patch cables connecting equipment must be contained in cable management trays, or wire wrapped to ensure the serviceability of the cable plant.
- ◆ Low voltage wiring terminating at other equipment (, multimedia distribution equipment, etc.) must conform to the connection standards of the equipment manufacturer. All such wiring must be appropriately labeled and if the wire is run into a classroom, library, multimedia room, or lab, it must be neatly installed with cables either bundled or installed into cable management devices.
- ◆ The use of Raceway TM, Wiremold TM, or other surface mount cable channel in any classroom, hallway, or other public area is expressly prohibited without prior authorization from the PSI.
- ◆ All wiring in the ceiling is to be bundled appropriately and labeled to ensure maintainability and serviceability. Said bundles are to be securely attached to the roof support structure and should not be attached to any other wire, pipe, HVAC fixture, ceiling supports, etc. Cable paths must avoid interfering with the serviceability of all existing facilities above the ceiling.

Standards

The PSI follows the EIA/TIA 568B standards for data communications cable, and all new data communications cable installed must be category 5e compliant, and be certified as such by testing with electronic scanners. All data cable compliance certifications must be delivered to the PSI prior to completion of the installation. All fiber optic cable installed must also be tested for compliance with standards and certification of such compliance must be reported to the PSI prior to the completion of the project.

Documentation

RGC Statement of Work for
Network Electronics

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Exhibit A-1

The district has a structured wiring plan in place; all additional wiring installed must be labeled appropriately. Labeling designations can be obtained from the Network Service Group of the Division of Technology. It is strongly recommended that any wiring installations be coordinated with the Network Services Group and the Facilities Departments.

Working in the campuses

Unless prior arrangements have been made with campus and District personnel, any wiring work must be performed during non-school hours. Most campus' classes are scheduled between 7:00 a.m. and 4:00 p.m. Therefore, as a general rule, all wiring work must be done at night, on weekends, or during school holidays.

Unless other arrangements are made in advance, all classrooms, hallways, and other public areas must be restored to their normal appearance at the end of each work shift. Ceiling fans must be replaced, wall plates must be installed, and the area must be left clean in preparation for the next school day. No wiring ends, supply leftovers, or any other residue is to be left at the campus. Communication closets can be left in the work in progress stages so long as it does not interfere with the serviceability of the network and communications equipment in these rooms.

At the completion of the wiring project, all ceiling tiles must be securely in place, all access points must be covered and be cosmetically and structurally complementary of the existing building. All supplies, equipment, and tools are to be removed from the building.

Firewalls

It is the responsibility of the wiring installer to ensure that any firewall penetrations are properly sealed and conform to building codes regulating firewalls and the sealing of penetrations.

Final Walkthrough

Every wiring job will be subject to a final walk through to establish conformance with these standards. The wiring contractor is obligated to provide personnel to accompany District personnel on such inspection, if requested. Any discrepancies with these standards must be corrected before the project can be considered complete. Acceptance of the contracted work by the district will be accomplished at the final walkthrough, and is a prerequisite to payment of any invoice for services.

Appendix E: CABLING INSTALLATION AND TESTING

Installation of a New MC

- Furnish and install Main Cross Connect (M.C.) that all data connections may be cross-connected from. This M.C. will be furnished and installed as per the Specifications Document and will contain the following, as appropriate and required:
- (1) 4' x 8' x .75" Virgin Plywood backboard that has been fire retardant treated at least 3 times with an approved treatment and firmly attached to the wall
- (1) 7' x 19" communications rack firmly attached to floor or 6 ft. cabinet.
- Ladder tray/stabilizer firmly attached to wall and proceeding up wall into ceiling for a complete cabling pathway for distribution
- Ceiling interface with ladder tray to give a good aesthetic appearance and protection of cabling
- Grounding and bonding to existing TMGB, or the installation of a new TIA/EIA 607 Grounding and Bonding System.
- 48 Port Modular Patch Panels Labeled for Data
- 24 Port Modular Patch Panel Labeled for Data
- (2 -6) Wire Managers as needed
- (Qty) 1 and/or 3meter enhanced category 5e color coded data patch cables

Installation of a New IC

- Furnish and install an Intermediate Cross Connect listed as (I.C.#_) located in the Telecommunications Closet (Room _) located in the computer storage area that all data connections may be cross-connected from. This I.C. will be furnished and installed as per the Specification Document and will contain the following, as appropriate and required:
- (1) 4' x 4' x .75" Virgin Plywood backboard that has been fire retardant treated at least 3 times with an approved treatment and firmly attached to the wall
- (1) 3' x 19" x 18" Wall mounted black swing away rack (double hinged) or 2' or 4' cabinet.
- (1) Ladder tray proceeding up wall into ceiling for a complete cabling pathway for distribution
- (1) Ceiling interface with ladder tray to give a good aesthetic appearance and protection of cabling
- (1) Grounding and bonding to existing TMGB, or the installation of a new TIA/EIA 607 Grounding and Bonding System.
- (3) 48 Port Modular Patch Panels Labeled for Data
- 1 (24) Port Modular Patch Panel Labeled for Data
- (2 - 6) Wire Managers as needed.
- (Qty) 1 and/or 3meter enhanced category 5e color coded data patch cables

Additional Work to MC (Re-Work, Clean-Up)

- Each MC (Main Cross Connect) required for additional work will have the following possible corrections:
- Re-locate existing rack and all attached media cables connected and terminated onto the rack; Re-test some or all existing circuits for test certification; Re-label some or all existing cabling circuits. Confirm or provide a qualified TGB for proper earthing and bonding of the MC.

Additional Work to IC (Re-Work, Clean-Up)

- Each IC (Intermediate Cross Connect) required for additional work will have the following possible corrections:
- Re-locate existing rack and all attached media cables connected and terminated onto the rack; Re-test some or all existing circuits for test certification; Re-label some or all existing cabling circuits. Confirm or provide a qualified TGB for proper earthing and bonding of the IC.

Connecting Campus MC to Campus IC (Inside Plant 12-strand fiber optic cable only)

- All MC to IC design will be of the indoor type with a maximum length of 200' with not more than 3 inside cores through what may be firewalls to deliver pathway.
- RGC will provide wire management to ensure a comprehensive, neat completion of work.
- AS BUILT schematics on cabling performed will be supplied.

Connecting Campus MC to Campus IC (Inside Plant) (Turn-Key)

- ◆ All MC to IC design will be of the indoor type with a maximum length of 200' with not more than 3 inside cores through what may be firewalls to deliver pathway.
- ◆ Furnish and install one (1) 4' x 19" Swing Away Rack onto a ¾" plywood backboard that has been fire retardant treated and firmly attached to the wall area.
- ◆ RGC will provide wire management to ensure a comprehensive, neat completion of work.
- ◆ AS BUILT schematics on cabling performed will be supplied.

Single Cable Drops

- ◆ Each single drop location will be serviced by the following cables: one (1) each category 5e, 4-pair cable. The number of locations will be determined by RGC, and PSI prior to installation. Each Single Drop is priced using existing pathway only – existing pathway definition means RGC will not have to core through walls, add conduit, or add Raceway.
- ◆ The following is the dual drop termination scheme (the equipment to be connected to is assumed to already be in place at the telecommunications closet end) for each cable:
- ◆ Work Area Outlet:

CableTermination

Category 5e Data

RJ45 Category 5e 568B Insert

◆ Telecom Room:

CableTermination

Category 5e Data

Rack mounted 48-port Cat 5e RJ45 568B
high density patch panel

- ◆ RGC We will provide wire management to ensure a comprehensive, neat completion of work.
- ◆ AS BUILT schematics on work to be performed will be supplied.

Dual Cable Drops

- ◆ Each dual drop location will be serviced by the following cables: two (2) each category 5e, 4-pair cables. The number of locations will be determined by RGC and PSI prior to installation. Each Dual Drop is priced using existing pathway only – existing pathway definition means RGC will not have to core through walls, add conduit, or add Raceway.
- ◆ The following is the dual drop termination scheme (the equipment to be connected to is assumed to already be in place at the telecommunications closet end) for each cable:
- ◆ Work Area Outlet:

CableTermination

Category 5e Data

RJ45 Category 5e 568B Insert

◆ Telecom Room:

CableTermination

Category 5e Data

Rack mounted 48-port Cat 5e RJ45 568B
high density patch panel

- ◆ RGC will provide wire management to ensure a comprehensive, neat completion of work.
- ◆ AS BUILT schematics on work to be performed will be supplied.

Dual Data Drops

- ◆ Each dual drop location will be serviced by the following cables: two (2) each category 5e, 4-pair cables. The number of locations will be determined by RGC and

PSI prior to installation. Each Dual Drop is priced using existing pathway only – existing pathway definition means RGC will not have to core through walls, add conduit, or add Raceway.

- ◆ The following is the dual drop termination scheme (the equipment to be connected to is assumed to already be in place at the telecommunications closet end) for each cable:

- ◆ Work Area Outlet:

<u>Cable</u>	<u>Termination</u>
Category 5e Data	RJ45 Category 5e 568B Insert
Category 5e Data	RJ45 Category 5e 568B Insert

- ◆ Telecom Room:

<u>Cable</u>	<u>Termination</u>
(2) Category 5e Data	Rack mounted 48-port Cat 5e RJ45 568B high density patch panel

- ◆ RGC will provide wire management to ensure a comprehensive, neat completion of work.
- ◆ AS BUILT schematics on work to be performed will be supplied.

Wiring a Lab within a Room – “In-Wall” (IW) Design

- ◆ Lab Design cable drops will not exceed 100' in length and shall not include any core or firewall penetrations for this S.O.W.
- ◆ Furnish and install up to twenty (20) Category 5e, 4-pair twisted, Plenum solid core copper cable drops into a single classroom (Lab). These cable drops will be through sheetrock pathways with dropped acoustical ceilings and will be suspended onto Caddy Cat.32 “J” Hooks at no more than 5' intervals on red metal or on ceiling support positions but not on ceiling grids or ceiling hanging wires.
- ◆ Furnish and install up to five (5) Quad-Plex Faceplates of single gang construction for W.A.O. (Work Area Outlet) design to deliver service to the students. These faceplates will be flush mounted into Sheetrock walls utilized with Caddy BB-10's.
- ◆ Furnish and install one (1) 48-port modular patch panel for final central Horizontal connection point.
- ◆ Furnish and install one (1) Wire Manager for neat and proper pathway placement.
- ◆ Furnish and install up to twenty (20) Jacks into faceplates.
- ◆ Furnish and install up to seventy two (72) Category 5e Patch Cables in either 1 or 3-meter design for use at the W.A.O. or at the Patch Panel.
- ◆ RGC will provide wire management to ensure a comprehensive, neat completion of work.

- ◆ AS BUILT schematics on cabling performed will be supplied.

Wiring a Lab within a Room – “Outer-Wall” (OW) Design

- Lab Design cable drops will not exceed 100' in length and shall not include any core or firewall penetrations for this S.O.W.
- Furnish and install up to twenty (20) Category 5e, 4-pair twisted, Plenum solid core copper cable drops into a single classroom Lab. These cable drops will run down the outer wall with Wiremold proceeding from dropped acoustical ceilings and will be suspended onto Caddy Cat.32 “J” Hooks at no more than 5' intervals on red metal or on ceiling support positions but not on ceiling grids or ceiling hanging wires.
- Furnish and install up to five (5) Quad-Plex Faceplates of single gang construction for W.A.O. (Work Area Outlet) design to deliver service to the students. These faceplates will be surface mounted onto the outside of the wall utilizing Wiremold and on surface mounted boxes.
- Furnish and install one (1) 48-port modular patch panel for final central Horizontal connection point.
- Furnish and install one (1) Wire Manager for neat and proper pathway placement.
- Furnish and install up to twenty (20) Jacks into faceplates.
- Furnish and install up to seventy-two (72) Category 5e Patch Cables in either 1 or 3-meter design for use at the W.A.O. or at the Patch Panel.
- RGC will provide wire management to ensure a comprehensive, neat completion of work.
- AS BUILT schematics on cabling performed will be supplied.

Existing Cable Removal

- RGC will include the removal of any abandoned cable left within the schools as a result of the replacement of an existing media with the installation of a new media cable. (Data, Voice or Video)
- Any abandoned cable not replaced by RGC with the installation of a new media cable will be covered with a blank faceplate and the existing cable left within the walls and or ceilings.

1. Functional Testing

Functional Testing will be performed in conformance with the following:

Fiber Meter – Transmission and path loss testing (Fiber meter test method). RGC will perform fiber meter testing on all fiber optic cable installed under this SOW. Soft Copy test results will be provided.

Category 5e Cable – Category 5e compliance testing per UL standards. RGC will perform Category 5e testing on the Category 5e cable installed under this SOW in accordance with EIA/TIA standards. Soft Copy test results will be provided.

Appendix F: SIGNATURE PAGE

RGC (we) will provide, and PSI (you) agrees to accept, RGC Services (Services) for "RGC Statement of Work for Network Electronics and Cabling" under the terms and conditions of the RGC Customer Agreement and this Statement of Work. For Scope of Services, Completion Criteria, Charges and other applicable terms refer to the RGC Statement of Work dated 31 January 2003.

RGC is aware of the District's reliance on an outside source of funding (Universal Service Fund) to execute on the implementation tasks described in this SOW. Should Positive Solutions, Inc. (PSI) not receive the requested funding for E-rate 6, PSI may terminate the SOW without further obligation. Should PSI receive only partial funding, RGC will work with PSI to incorporate those portions of this SOW that can be accomplished based upon available funding. It is specifically understood by RGC and PSI that no E-rate 6 activity will occur prior to RGC's receipt from PSI of written authorization to precede. It is understood by PSI and RGC that, should full or partial funding be received by PSI, and should PSI decide to initiate work on the project, that PSI will use this SOW and RGC as designated Solution Provider, to accomplish the agreed to scope of effort under the E-Rate program, after the Board accepts the E-Rate funding.

It is understood by PSI and RGC that this SOW and its associated pricing is based upon RGC receiving written approval from PSI to proceed with E-rate 6 no later than December 31, 2003. In the event this approval is not received by this date, RGC reserves the right to restructure the SOW, with PSI's concurrence, to incorporate only those tasks that can be successfully completed by RGC prior to June 30, 2004. This proposal will remain valid through December 31, 2003.

Total Charges: \$216,646.54, which includes travel and living expenses. Both of us agree that the complete agreement between us regarding these Services will consist of 1) this Statement of Work and 2) the RGC Customer Agreement (or any equivalent agreement signed by both of us).

Agreed to:

San Antonio Positive Solutions, Inc.

By


(Authorized Signature)

Name

Date 2/5/03

Customer Number

Customer Address

1325 North Flores

San Antonio, TX 78212


Start Date: July 1, 2003

RGC Statement of Work for
Network Electronics

Agreed to

RGC and Associates, Inc.

By


(Authorized Signature)

Name

Date 2/5/03

RGC Customer Agreement No.

RGC Office Address:

115 E. Travis St. Suite 1500

San Antonio, TX 78205

End Date: June 30, 2004

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Exhibit A-1

STATE OF TEXAS

COUNTY OF BEXAR

AFFIDAVIT BY PAMELA M. SOLITAIRE

Before me, the undersigned authority, on this day personally appeared Pamela M. Solitaire, who being by me first duly sworn, on oath stated as follows:

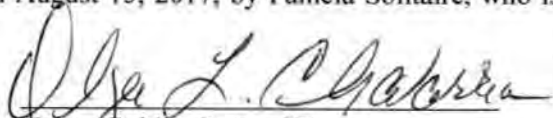
My name is Pamela M. Solitaire. I am over the age of 18, am of sound mind and capable of making this affidavit. I understand that if I lie in this affidavit, I may be criminally responsible.

I was the Director for San Antonio Positive Solutions, Inc., doing business as Positive Solutions Charter School ("SAPS"), 1325 North Flores, San Antonio, Texas 78212, from November 01, 1993 through April 2, 2013. I was the person at SAPS who, in 2003, was responsible for drafting, completing and submitting a Form 470, Description of Services Requested and Certification Form, for a Network Electronics and Cabling Project ("the project") for SAPS, FRN 1002895.

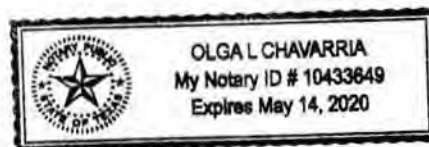
As I recall, RGC and Associates, Inc. was the sole vendor that submitted a proposal to SAPS.


Pamela M. Solitaire

Sworn to and subscribed before me on August 15, 2017, by Pamela Solitaire, who is personally known to me.


Notary Public, State of Texas

My commission expires May 14, 2020

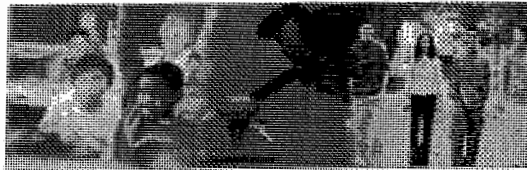


RGC and Associates, Inc. (RGC)

Statement of Work

for

NETWORK ELECTRONICS AND CABLING PROJECT



**Prepared for
San Antonio Positive Solutions, Inc.
(Positive Solutions, Inc.)**

January 31, 2003

The information in this Statement of Work shall not be disclosed outside Positive Solutions and shall not be duplicated, used or disclosed in whole or in part for any purpose other than to evaluate the proposal, provided that if a contract is awarded to RGC as a result of or in connection with the submission of this Statement of Work, Positive Solutions shall have the right to duplicate, use or disclose the information to the extent provided by the contract. This restriction does not limit the right of Positive Solutions to use information contained in the Statement of Work if it is obtained from another source without restriction.

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1. STATEMENT OF WORK

Statement of Work – Introduction

This section describes the Services that RGC and Associates will provide under the terms of the RGC Customer Agreement (*Agreement*) and this Statement of Work (SOW). Specifically, RGC will provide Positive Solutions, Inc. (PSI) with a set of customized e-ratable services, with supporting documentation. The details of the Services to be provided are described in this section. These Services will be provided at all eligible PSI locations in San Antonio, Texas.

Scope of Work to be accomplished by RGC includes the procurement, installation and testing of a network infrastructure that is capable of supporting PSI's educational technology requirements.

This Statement of Work is comprised of the following sections:

1. Assumptions
2. RGC Responsibilities
3. PSI Responsibilities
4. Deliverable Materials - Documentation
5. Project Schedule
6. Completion Criteria
7. Warranty
8. Charges

The following are incorporated in and made part of this Statement of Work:

- ◆ Appendix A, Deliverable Guidelines / Documentation
- ◆ Appendix B, Project Change Control Procedure
- ◆ Appendix C, Equipment
- ◆ Appendix D, Wiring Installation Standards
- ◆ Appendix E, Cabling Installation and Testing Specifications
- ◆ Appendix F, Signature Page

Changes to this Statement of Work will be processed in accordance with the procedure described in Appendix B, "Project Change Control Procedure." The investigation and the implementation of changes may result in modifications to the Schedule, Charges or other terms of this Statement of Work.

This proposal will expire December 31, 2004 unless this date is extended by RGC in writing.

1.1 Assumptions

This Statement of Work and RGC's estimates to perform the Statement of Work are based on the following assumptions. Deviations that arise during the proposed project will be managed through the procedure described in Appendix B, "Project Change Control Procedure."

The networking system environment consists of PSI's eligible sites.

1. No sites affected by RGC's performance under this SOW have been declared as "Historical Buildings."
2. RGC will provide up to 90 cable drops, which includes moves, adds and changes.
3. PSI eligible sites do not exceed one (1) location.
4. PSI school sites will be cabled and have closets prepared prior to the installation of network equipment.
5. PSI personnel who will be assigned to this project will have the technical skills necessary to participate in the project.
6. PSI and user personnel will be available as described in section 3.0, "PSI Responsibilities."
7. PSI will provide a current and accurate listing of each school site, to include network electronics hardware and software installed, and the number of MDF and IDF wiring closets.
8. Work under this Statement of Work will be performed at sites within PSI and will not require travel to school sites outside district boundaries.
9. Only those components specified in this SOW are to be supplied and installed by RGC. Additional components can be specified via the Project Change Control Procedure detailed in Appendix B.
10. Services to configure network electronics in each MDF or IDF will be performed at one time.
11. Work under this contract will be performed during school hours (7:00 a.m. and 4:00 p.m.) unless otherwise mutually agreed by RGC and PSI.
12. Work to be performed at specific sites will be mutually agreed and scheduled at least ten (10) business days prior to the commencement of the work.
13. RGC may use subcontractors in the performance of this SOW.
14. RGC and our subcontractor(s) will have unlimited, unrestricted access to all buildings. Any security requirements inclusive of guards, security codes/access codes, lighting and internal access and/or central monitoring are the responsibility of PSI.
15. RGC will be provided with access badges, keys and combinations or escorts to perform the work described in this SOW. Any delay encountered due to unavailability of buildings may result in additional charges being incurred by PSI. If this situation arises, it will be addressed via the Project Change Control Procedure detailed in Appendix B.
16. Adequate wall space/wiring closet space will be made available to RGC for the purpose of placing MDF/IDF products and equipment installed under this agreement. It is understood by RGC and PSI that any delay encountered due to insufficient wall space/insufficient wiring closet space may result in time delays and additional charges incurred by PSI. If this situation arises, it will be addressed via the Project Change Control Procedure detailed in Appendix B.
17. It is understood by PSI and RGC that this SOW is based upon the Start Date provided below. In the event this date is not achieved, RGC reserves the right to extend the project End Date on a working day for working day basis, and as mutually agreed by RGC and PSI, via the Project Change Control Procedure detailed in Appendix B.

18. It is understood by PSI and RGC that this SOW and the pricing associated with this SOW are based upon the award of the total proposed SOW described in this document. The work described in this SOW will be performed during one continuous phase.
19. RGC will not order product until after the site survey has been made and the configuration verified and agreed to by PSI.
20. PSI will provide access to the PSI network for support.
21. This Statement of Work applies to eligible buildings identified in FCC Form 471.
22. Delivery of product is dependent upon availability from our vendor(s).
23. All non-RGC products must be approved by RGC's Product Safety Review Board prior to RGC placing your order. If any product does not meet our product safety specifications, RGC will work with you to identify an alternate product. Procurement of an alternate product will occur only upon your approval.
24. Excluded from the Services Charge are items involving, but not limited to; repairs to the Location for correcting existing code deficiencies, painting, asbestos removal, plumbing, heating and ventilation, air conditioning work, etc.

Exclusions from this Statement of Work

1. RGC is not responsible under this SOW for the identification or correction of any existing safety and/or code violations, whether federal, state or local, including but not limited to fire and electrical codes. If RGC should discover any safety and/or code violations during the course of this project, RGC will notify PSI of the problem. RGC will not be required to proceed with its work under this SOW until PSI remedies such violation, nor will RGC be responsible for delays to the work caused by such violation.
2. It is specifically understood by PSI and RGC that all matters relating to detection and/or abatement or removal of asbestos, hazardous waste or other pollutants are beyond the scope of this contract and that RGC shall not be liable for any delay or additional cost incurred as a result of such detections and/or abatement. If asbestos, hazardous waste or other pollutants are uncovered during the course of the work on the contract, then PSI shall be responsible for retaining the experts necessary to remove such asbestos, hazardous waste or pollutants from the site. PSI shall also be responsible for any testing and corresponding with appropriate government authorities.
3. On-going network operations and coordination are not included in this Statement of Work. RGC would be pleased to respond to PSI for the addition of these services.
4. Relocation and testing of existing computers, telecommunications, or CCTV equipment(s) or systems are not required.
5. Removal of existing telecommunications or CCTV cabling is not required.
6. No data Media Converters are being supplied under this Statement of Work.
7. Installation of any hardware, software, and network electronics not specified in this SOW (e.g., workstations, servers, printers, routers, DSUs/CSUs, repeaters, modulators) is the responsibility of PSI. If RGC performs work on these excluded items, it must be done pursuant to a separate purchase order, and a separate SOW or PCR to this SOW.
8. It is understood by PSI and RGC that all matters relating to physical construction of new wiring closets/equipment locations and retrofits for existing wiring

closets/equipment locations, (general construction build out, HVAC, electrical, lighting, construction permits) is the responsibility of PSI.

9. Under the terms of this Statement of Work we are not responsible for 1) your products, 2) a third party's products (including products you license from our subcontractors) or 3) RGC's previously installed Products, ("Other Products") to correctly process or properly exchange accurate date data with the Products or deliverables we provide. We will be relieved of our obligations under this Statement of Work due to the inability of such Other Products to correctly process or properly exchange accurate date data with the Products or deliverables we provide to you.

2. RGC RESPONSIBILITIES

2.1 Project Management

Task Description

The objective of this task is to provide technical direction, maintain project control and establish a framework for project communications, reporting, procedural, and contractual activity for the RGC tasks described.

This task consists of the following activities:

- ◆ Establish and coordinate RGC efforts with the PSI Project Manager.
- ◆ Develop and maintain work plans for the performance of RGC responsibilities.
- ◆ Administer the Change Control Procedures.
- ◆ Schedule and attend regularly scheduled status meetings.
- ◆ Maintain communications and review progress with the PSI Project Manager and team members during status meetings.
- ◆ Prepare and submit written Monthly Status Reports of RGC activities to the PSI Project Manager.

Completion Criteria

This task will be considered complete when the project is complete and the final Monthly Status Report has been delivered to the PSI Project Manager.

Deliverables/Documentation

Monthly Status Reports.

2.2 Perform Site Survey

Description

The objective of this task is to visit PSI locations and perform a site survey. The sub-tasks are:

1. Verify and correct site general information.
2. Identify and document site's special considerations:
 - Site's labor requirements and works restrictions (e.g. union vs. Non-union environments, works hours, access restrictions, special condition or limitations) that may affect the site's rollout.
 - Safety regulations - as may apply from municipalities
 - Site security requirements
 - Any unusual site conditions (e.g., site to be closed in one week)
3. Identify Equipment Room locations and requirements
 - Isolated electrical power circuit availability
 - Heating and air-conditioning
 - True earth ground availability

- - Access security
- Fiber/Telephone circuit connection – DS3, T1, ISDN

Completion

This task will be complete for a site when the site visit is complete and a site survey document for the site is provided to the PSI Project Manager.

Deliverable/Documentation

Site Survey Document

2.3 Installation/Configuration of Network Electronics and Cabling

Description: The objective of this task is to configure and install Three (3), Cisco 2950 Switches, One (1) Cisco 2620 Router, Two Wireless Access Points, and the specified cabling, interconnects, and Configuration of the specified equipment. The Subtasks are:

1. Development of network design – Provide design and component list as part of response to IFB (470)
 - A. Meet with project team to discuss design parameters
 - B. Meet with selected Electronics Manufacturer to help determine new products.
 - C. Determine base component structure
 - D. Determine quantity of UPS' needed to protect all closets
2. Research and identify hardware components that fit hardware design
 - A. Research validity of base component structure
 - B. Research availability of necessary function, capability, and compatibility of recommended base components
 - C. Develop integrated hardware and software components
3. Develop detailed component list to match network design
 - A. Develop estimation criteria to base component numbers on
 - B. Match hardware and software component to estimated numbers to develop final equipment list
4. Survey all schools
 - A. Survey all currently installed hardware to determine current network status
 - B. Survey power in all MC's at each site and in each closet
 - C. Survey physical space in all MC's at each site and in each closet
5. Power designation walkthrough
 - A. Coordinate power designation walkthrough schedule with PSI facilities
 - B. Visit all eligible sites to determine placement of new 20A dedicated power circuits for MC network electronics (as needed)
6. Compilation of all data from Survey

- A. Develop a spreadsheet that shows totals of existing equipment available for trade-in
 - B. Submit equipment list to old Electronics Manufacturer and acquire trade-in amount document
 - C. Compile and submit document for all other survey results
 - D. Assisting in development of SLD submission packet for equipment purchase
 - E. Closet by closet compilation of final network drops to be used in developing school specific final component list
7. Development of closet-by-closet network electronics component list for all eligible sites
- A. Matching hardware and software components defined in the design process to the network drops counts to determine specific product configuration for every closet in every school
 - B. Develop network architecture (i.e. Routing protocols, VLAN development, QOS, IP protocol scheme etc.)
 - C. Develop detailed component configuration parameters
8. Receive, Inventory and Installation of electronic components
- A. Receive, inventory, break out components to match each individual campus and the district data center
 - B. Coordinate delivery and downtime for installation of electronics at each campus
 - C. Remove existing cabling and network electronics in each closet, at each campus as installation is being performed
 - D. Install new electronic components
 - E. Configure each individual electronic component in accordance with the developed configuration parameters
 - F. Patch new electronic components into cable plant – includes installation of wire management
 - G. Interconnect closet to closet communications
 - H. Connect local area network to wide area network
 - I. Test perform aspects of both local and wide area network
9. Asset Tag Management and Documentation
- A. Document all configuration parameters for each installed component
 - B. Document serial numbers, location and asset tags for each installed component
 - C. Document serial numbers and asset tags from each replaced component
 - D. Remove all old electronic components from campus site to staging area
 - E. Separate trade in components from non trade in components
 - F. Facilitate trade in of old components to appropriate manufacturer
 - G. Compile and submit all serial number to appropriate manufacturer to activate warranty coverage
 - H. Compile all documentation and turn over to District the end results (Site Installation Document)

Completion

This task will be complete for each PSI location when RGC delivers the Site Network Installation Document for that location to the PSI Project Manager.

Deliverables/Documentation

Site Network Installation Documentation

2.4 Install and Test Cabling

Task Description: RGC will install and test cabling in support of the adds, moves, and changes to the cabling plant at PSI per the specifications contained in Appendix D and Appendix E. The sub-tasks are:

- ◆ Provide moves, adds and changes to the existing cable plant. It is understood that moves of cable drops will be to a point closer to the communication closet. The cable drops moved will be tested to verify that they meet specification requirements. Estimated additional drops for moves, adds and changes are 90.
- ◆ Provide cabling connections between the main building at a campus and new buildings, which are not portables or cottages for the purpose of delivering signal to their ICs.
- ◆ Provide cabling to attach designated classrooms moved between campuses as required based on the terms outlined in the contract.
- ◆ Build portable ICs for classrooms moved between campuses as required based on the terms outlined in the contract.
- ◆ Install specified data drops including the installation of a cabinet rack in District computer labs, MCs, and ICs and HC's.
- ◆ Build MCs and ICs facilities as defined in Appendix E.
- ◆ Provide testing for the cabling installed under this SOW as defined in appendix E.
- ◆ Develop "As Built" drawings to document the cabling installation provided - documentation.
- ◆ Compile a Project Cabling Test Book - documentation.

Completion Criteria: This task will be considered complete when RGC delivers one (1) set of "As Built" drawings and one (1) copy of the Project Cabling Test Book to PSI.

Deliverables: Documentation:

- ◆ "As Built" drawings
- ◆ Project Cabling Test Book

3. PSI RESPONSIBILITIES

The responsibilities listed in this section are in addition to those responsibilities specified in the RGC Customer Agreement and are to be provided at no charge to RGC. RGC's performance is predicated upon the following responsibilities being fulfilled by PSI.

3.1 General Responsibilities

- ◆ Assign a Project Manager to represent PSI regarding this contract.
- ◆ Provide full access to all PSI school locations as required under this SOW.
- ◆ Communicate with appropriate PSI personnel of the work to take place and obtain their approval if necessary.
- ◆ Provide floor diagrams of affected campus locations in 8 1/2 x 11 hardcopy format.
- ◆ Provide all necessary closet and/or equipment areas for the location of network electronics, racks and cabinets as described in this SOW.
- ◆ Provide all necessary power and environmental support to accommodate all RGC and PSI provided equipment.
- ◆ PSI is responsible for all permits and associated fees.
- ◆ Provide all necessary configuration information to enable RGC's network equipment procurement and installation activities under this SOW.
- ◆ Inform RGC of any change in network requirements in accordance with the RGC Project Change Control Procedure in Appendix B.

3.2 Project Management

Prior to the start of this Statement of Work under the Agreement, PSI will designate a person, called the PSI Project Manager, to whom RGC communications will be addressed and who has the authority to act for PSI in all aspects of the contract.

The PSI Project Manager's responsibilities include:

1. Provide liaison between all project participants.
2. Manage the Project Change Control Procedure for PSI.
3. Attend project status meetings.
4. Obtain and provide information, data, decisions and approvals, within two (2) working days of RGC's request unless PSI and RGC agree to an extended response time.
5. Help resolve project issues and escalate issues within the PSI organization, as necessary.
6. Permit posting of any notifications required by applicable law for Services provided at your locations.
7. Provide required conduit and trenching within the project schedule timeframe should PSI require RGC to utilize buried or underground conduit that does not currently exist.
8. Provide personnel (if PSI desires) to witness and authorize standard testing of each school building as the installation/testing activities are completed.

9. Locate and mark all water, gas, electrical or any other underground pipes or cabling in the path required for the trenching for the fiber connection, before trenching can be started.

3.3 Space, Facilities and Utilities

Provide centralized and secure staging work area and facilities for performing the necessary staging and configuration of the RGC provided equipment.

Provide installation facilities for RGC provided equipment. PSI is responsible for space allocation, HVAC and electrical considerations. PSI is responsible for providing the power, light and water necessary for the performance of this project.

RGC and our subcontractor will have 24x7 access to all buildings to perform the RGC Responsibilities specified in this Statement of Work. Any security requirements inclusive of guard, security codes/access codes, lighting and internal access and/or central monitoring are the responsibility of PSI.

Adequate space will be made available for the installation of all products related to this project.

3.4 Security and Laws

PSI will identify and make the interpretation of any applicable federal, state, and local laws, regulations and statutes to see that the services provided by RGC comply.

4. DELIVERABLES / DOCUMENTATION

The following items will be delivered to PSI under this Statement of Work. See Appendix A, "Deliverable Guidelines" for a description of each deliverable.

- ◆ Status Report
- ◆ Site Survey Documentation
- ◆ Site Network Installation Documentation
- ◆ "As-built" drawings
- ◆ Project Cabling Test Results

5. PROJECT SCHEDULE

- ◆ Start Date – July 1, 2003
- ◆ End Date – June 30, 2004

5.1 Project Delays

RGC will not be responsible for delays or additional requirements imposed by any government agencies or unforeseen conditions such as delays in the progress of the project by your acts or neglect or the acts or neglect of your employees or separate contractors employed by you, by changes ordered in the project not caused by the fault of RGC, by labor disputes, fire, unusual delays in transportation, adverse weather conditions not reasonably anticipatable, unavoidable casualties or other causes beyond RGC's control or by another cause which you and RGC agree is justifiable.

6. COMPLETION CRITERIA

RGC shall have fulfilled its obligations under this Statement of Work when any one of the following occurs:

- ◆ RGC accomplishes the tasks described in section 2.0, "RGC Responsibilities,"
- ◆ Either of us terminates the Project in accordance with the provisions of the RGC Customer Agreement and this SOW.
- ◆ The End Date for the contract is reached.

7. PROJECT WARRANTY

RGC does not guarantee or warrant, express or implied, the materials used in workmanship of supplies, materials, equipment or machinery manufactured by third parties and furnished and installed under this Agreement. RGC shall endeavor to obtain from all vendors and suppliers and assign to Owner the customary warranties and guaranties of such vendors and suppliers with respect thereto. RGC shall render reasonable assistance to Owner when requested in order to enable the Owner to enforce such warranties and guaranties by third party manufacturers and suppliers.

There are no other warranties, express or implied, including but not limited to the implied warranties of merchantability and fitness for a particular purpose.

8. CHARGES

RGC will submit invoices per the payment schedule as stated below.

The Services Charge stated here represents the maximum allowable charges for all services that may be provided under this Statement of Work. RGC understands that the decision to implement this project is contingent upon award to Positive Solutions Inc. (PSI) of funding under the E-rate program. RGC will not begin work on this project without written notification from PSI that funding has been approved and that work should begin. If such notification has not been received by December 31, 2003, at RGC's option, RGC may terminate this Statement of Work or implement an extension of this Statement of Work, as well as changes in pricing or other terms and conditions as may be required, via the Project Change Control Procedure outlined in Appendix B.

Or this SOW may be extended upon mutual agreement between PSI and RGC as defined in the section titled Project Change Control Procedure. Should PSI not receive the requested funding for E-rate 6, PSI may terminate the SOW without further obligation. Should PSI receive only partial funding, RGC will work with PSI to incorporate those portions of this SOW that can be accomplished based upon available funding. It is specifically understood by RGC and PSI that no E-rate 6 activity will occur prior to RGC's receipt from PSI of written authorization to precede. It is understood by PSI and RGC that, should full or partial funding be received by PSI, and should PSI decide to initiate work on the project, that PSI will use this SOW and RGC as designated Solution Provider, to accomplish the agreed to scope of effort under the E-Rate program.

It is understood by PSI and RGC that this SOW and its associated pricing is based upon RGC receiving written approval from PSI to proceed with E-rate 6 no later than December 31, 2003. In the event this approval is not received by this date, RGC reserves the right to restructure the SOW, with PSI's concurrence, to incorporate only those tasks that can be successfully completed by RGC prior to June 30, 2004. This proposal will remain valid through December 31, 2003

Equipment Prices, License Fees and Service Charges:

Total Materials Price:	\$ 74,809.04
<u>Charges for Network Installation/Configuration</u>	<u>\$141,837.50</u>

TOTAL	\$ 216,646.54
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E-Rate Invoicing: Prior to commencing work, RGC requires 1) a fully signed contract signature sheet; 2) a P.O. in the amount that the E-Rate program is not funding (e.g. non-discounted portion of the eligible costs plus the non-eligible costs); 3) a copy of the USAC's Funding Commitment Decision Letter, and; 4) submittal of USAC Form 486.

As a service to PSI, RGC will perform dual billing per E-Rate terms and conditions. First, RGC will invoice PSI, as product is delivered to the PSI provided RGC staging site and as work is completed, for the 'non-discounted' portion of the ELIGIBLE items and any non-eligible items. Secondly, under separate invoice, RGC will invoice the E-Rate FCC Snowe-Rockefeller administration for the remaining discounted portion of the ELIGIBLE items. Payment is due as specified in the invoice.

Should PSI not receive the requested funding for E-rate or should PSI receive only partial funding, RGC will work with PSI to incorporate those portions of E-rate funding

that can be accomplished based upon available funding, after the Board has accepted the E-Rate funding.

Please note that although RGC will bill PSI for the 'non-discounted' portion and other charges not eligible under the E-Rate program, PSI assumes responsibility for the entire contract services charge, should PSI not inform RGC of any changes in the funding status or work effort. Notwithstanding any other provision, PSI has the right to terminate this agreement for business reasons if written termination notice is given to RGC prior to any work being performed or service provided.

Excluded from the Services Charge are items involving, but not limited to; repairs to the Location for correcting existing code deficiencies, painting, asbestos removal, plumbing, heating and ventilation, air conditioning work, etc

RGC Service Provider Identification Number (SPIN): 143025918

RGC reserves a purchase money security interest in the Machines provided until RGC receives payment of the amounts due. You authorize RGC to prepare and file a financing statement to perfect its purchase money security interest in all Machines you order and RGC delivers under this Statement of Work.

RGC terms of payment are Net 30 days.

Appendix A: DELIVERABLE / DOCUMENTATION GUIDELINES

1. Monthly Status Reports

Purpose: RGC will provide Status Reports Monthly during the project to describe the activities, which took place during that period. Significant accomplishments, milestones and problems will be described.

Delivery: One (1) hard copy will be delivered to the PSI Project Manager, within five (5) working days following the reporting period.

Content: The report will consist of the following, as appropriate:

- Activities performed during the reporting period
- Activities planned for the next reporting period
- Project change control summary
- Problems, concerns, and recommendations
- Billing summary

2. Site Survey Document—Documentation

Purpose

RGC will provide a Site Survey Document for PSI location detailing locations, requirements, and special considerations.

Delivery

One (1) hard copy of the document and on (1) electronic copy will be delivered to the PSI Project Manager.

Content

The report will consist of the following, as appropriate:

- Site general information
- Site special considerations
- Equipment room locations and requirements

3. Site Network Installation Document

Purpose

RGC will provide a Network Installation Document summarizing the installation of equipment at a PSI location as specified in Appendix C.

Delivery

One (1) hard copy of the document and one (1) electronic copy will be delivered to the PSI Project Manager for each location where Network equipment is installed under this SOW.

Content

The report will consist of the following, as appropriate:

- Equipment List with Serial Numbers
- Configuration Information
- Physical location information

4. "As-built" Drawings

Purpose:

RGC will provide 8 1/2" x 11" "As-built" drawings, marked-up plan views showing drop and MC/IC equipment locations.

Delivery:

One (1) hard copy will be delivered to the PSI Project Manager within thirty, (30) working days following the completion of the project.

Content, as appropriate:

The report will show drop and MC/IC equipment locations.

5. Project Cabling Test Results

Purpose:

RGC will deliver one (1) copy of the Project Cabling Test Results. This will be a copy of the Cable Test Forms for Category 5e data cabling and fiber optic cabling.

Delivery:

One (1) hard copy will be delivered to the PSI Project Manager within thirty, (30) days of project completion.

Content:

The report will show cable tests results for all cable installed on this project.

Appendix B: PROJECT CHANGE CONTROL PROCEDURE

When both of us agree to a change in this Statement of Work, a written description of the agreed change (called a "Change Authorization") will be prepared, which both parties must sign. The Change Authorization will describe the change, the rationale for the change, and specify any change in the charges, schedule or other terms. Depending on the extent and complexity of the requested changes, RGC may charge for the effort required to analyze it. When charges are necessary in order to analyze a change, RGC will provide a written estimate and begin the analysis on written authorization. The terms of a mutually agreed upon Change Authorization will prevail over those of this Statement of Work or any previous Change Authorization.

Appendix C: EQUIPMENT LIST

Equipment:

RGC will provide the following internal connections equipment and associated documentation in accordance with the terms and conditions of this SOW:

QTY	DESCRIPTION/BRAND	Make/Model	Unit Quote	Extended Quote
	Cabling Equipment			
1	Rack - Hub Building	Elite 525061-1F	\$ 1,357.00	\$ 1,357.00
1	Router 8 port	Cisco 2620XM	\$ 9,599.30	\$ 9,599.30
3	Switches	Cisco 2950GE-SX	\$ 4,707.02	\$ 14,121.06
3	48 port Patch panels		\$ 236.00	\$ 708.00
90	Faceplates		\$ 1.30	\$ 116.82
90	Jacks		\$ 3.54	\$ 318.60
90	Box eliminators		\$ 1.18	\$ 106.20
450	RaceWay		\$ 2.36	\$ 1,062.00
154	Patch cables 3 ft		\$ 1.77	\$ 272.58
80	Patch cables 15 ft		\$ 3.54	\$ 283.20
11	Wire manager		\$ 35.40	\$ 389.40
2	Shelf		\$ 129.80	\$ 259.60
1	DSU/CSU	DDS/T1 MT102A-R2	\$ 2,205.42	\$ 2,205.42
1	UPS	IBM 37L-6861	\$ 4,484.00	\$ 4,484.00
1	Power Strip		\$ 70.80	\$ 70.80
450	Interduct		\$ 1.77	\$ 796.50
36	Couplings		\$ 1.65	\$ 59.47
19	Cat5e		\$ 199.42	\$ 3,788.98
1	Ties/Raps/Plates		\$ 2,950.00	\$ 2,950.00
		Series 8000		
3	Wireless Access & Cable	LW8001A/LW0050A-R2	\$ 10,620.00	\$ 31,860.00
	Network Equipment Install Services			
440	Installation		\$ 166.25	\$ 73,150.00
210	Configuration		\$ 140.00	\$ 29,400.00
150	Maintenance		\$ 140.00	\$ 21,000.00
110	Project Management		\$ 166.25	\$ 18,287.50

Non-Eligible Components

QTY	DESCRIPTION/BRAND	Unit Quote	Extended Quote
1	Firewall	\$ 15,990.18	\$ 15,990.18
1	Anti-Virus Appliance	\$ 4,714.10	\$ 4,714.10

Appendix D: WIRING INSTALLATION STANDARDS

Telecommunications wiring standards and practices

Foreword

The purpose of this section is to set forth standards for the installation of low voltage wiring typically used for telephone or data communications in any and all facilities of the PSI. This document is intended to establish acceptable installation practices in all PSI buildings and should be used as a contract addendum for all projects done by contract involving such wiring. As such, this document binds any contractor awarded work involving low voltage wiring to conform to the specifications herein.

Specifications

Placement/appearance

- ◆ All wiring should be placed in ceilings and walls, with only a jack (or other connector) on a faceplate establishing a connection point in all classrooms, offices, and other public areas. Data communications jacks are normally RJ45 and fiber optic cable terminations are normally ST connectors (either crimped or UV curved). These jacks and terminators will reside preferably on the same faceplate in a classroom or office. External control devices, which would normally be placed on interior surfaces in a commercial building, must conform to UL standards and be listed by UL.
- ◆ Inside wiring closets, data connections can be made to patch panels, or (if the specifications so state) to surface mount faceplates with exposed wiring, with said wiring being bundled, and appropriately labeled. Patch cables connecting equipment must be contained in cable management trays, or wire wrapped to ensure the serviceability of the cable plant.
- ◆ Low voltage wiring terminating at other equipment (, multimedia distribution equipment, etc.) must conform to the connection standards of the equipment manufacturer. All such wiring must be appropriately labeled and if the wire is run into a classroom, library, multimedia room, or lab, it must be neatly installed with cables either bundled or installed into cable management devices.
- ◆ The use of Raceway TM, Wiremold TM, or other surface mount cable channel in any classroom, hallway, or other public area is expressly prohibited without prior authorization from the PSI.
- ◆ All wiring in the ceiling is to be bundled appropriately and labeled to ensure maintainability and serviceability. Said bundles are to be securely attached to the roof support structure and should not be attached to any other wire, pipe, HVAC fixture, ceiling supports, etc. Cable paths must avoid interfering with the serviceability of all existing facilities above the ceiling.

Standards

The PSI follows the EIA/TIA 568B standards for data communications cable, and all new data communications cable installed must be category 5e compliant, and be certified as such by testing with electronic scanners. All data cable compliance certifications must be delivered to the PSI prior to completion of the installation. All fiber optic cable installed must also be tested for compliance with standards and certification of such compliance must be reported to the PSI prior to the completion of the project.

Documentation

RGC Statement of Work for
Network Electronics

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The district has a structured wiring plan in place; all additional wiring installed must be labeled appropriately. Labeling designations can be obtained from the Network Service Group of the Division of Technology. It is strongly recommended that any wiring installations be coordinated with the Network Services Group and the Facilities Departments.

Working in the campuses

Unless prior arrangements have been made with campus and District personnel, any wiring work must be performed during non-school hours. Most campus' classes are scheduled between 7:00 a.m. and 4:00 p.m. Therefore, as a general rule, all wiring work must be done at night, on weekends, or during school holidays.

Unless other arrangements are made in advance, all classrooms, hallways, and other public areas must be restored to their normal appearance at the end of each work shift. Ceiling fans must be replaced, wall plates must be installed, and the area must be left clean in preparation for the next school day. No wiring ends, supply leftovers, or any other residue is to be left at the campus. Communication closets can be left in the work in progress stages so long as it does not interfere with the serviceability of the network and communications equipment in these rooms.

At the completion of the wiring project, all ceiling tiles must be securely in place, all access points must be covered and be cosmetically and structurally complementary of the existing building. All supplies, equipment, and tools are to be removed from the building.

Firewalls

It is the responsibility of the wiring installer to ensure that any firewall penetrations are properly sealed and conform to building codes regulating firewalls and the sealing of penetrations.

Final Walkthrough

Every wiring job will be subject to a final walk through to establish conformance with these standards. The wiring contractor is obligated to provide personnel to accompany District personnel on such inspection, if requested. Any discrepancies with these standards must be corrected before the project can be considered complete. Acceptance of the contracted work by the district will be accomplished at the final walkthrough, and is a prerequisite to payment of any invoice for services.

Appendix E: CABLING INSTALLATION AND TESTING

Installation of a New MC

- Furnish and install Main Cross Connect (M.C.) that all data connections may be cross-connected from. This M.C. will be furnished and installed as per the Specifications Document and will contain the following, as appropriate and required:
- (1) 4' x 8' x .75" Virgin Plywood backboard that has been fire retardant treated at least 3 times with an approved treatment and firmly attached to the wall
- (1) 7' x 19" communications rack firmly attached to floor or 6 ft. cabinet.
- Ladder tray/stabilizer firmly attached to wall and proceeding up wall into ceiling for a complete cabling pathway for distribution
- Ceiling interface with ladder tray to give a good aesthetic appearance and protection of cabling
- Grounding and bonding to existing TMGB, or the installation of a new TIA/EIA 607 Grounding and Bonding System.
- 48 Port Modular Patch Panels Labeled for Data
- 24 Port Modular Patch Panel Labeled for Data
- (2 -6) Wire Managers as needed
- (Qty) 1 and/or 3meter enhanced category 5e color coded data patch cables

Installation of a New IC

- Furnish and install an Intermediate Cross Connect listed as (I.C.#_) located in the Telecommunications Closet (Room _) located in the computer storage area that all data connections may be cross-connected from. This I.C. will be furnished and installed as per the Specification Document and will contain the following, as appropriate and required:
- (1) 4' x 4' x .75" Virgin Plywood backboard that has been fire retardant treated at least 3 times with an approved treatment and firmly attached to the wall
- (1) 3' x 19" x 18" Wall mounted black swing away rack (double hinged) or 2' or 4' cabinet.
- (1) Ladder tray proceeding up wall into ceiling for a complete cabling pathway for distribution
- (1) Ceiling interface with ladder tray to give a good aesthetic appearance and protection of cabling
- (1) Grounding and bonding to existing TMGB, or the installation of a new TIA/EIA 607 Grounding and Bonding System.
- (3) 48 Port Modular Patch Panels Labeled for Data
- 1 (24) Port Modular Patch Panel Labeled for Data
- (2 - 6) Wire Managers as needed.
- (Qty) 1 and/or 3meter enhanced category 5e color coded data patch cables

Additional Work to MC (Re-Work, Clean-Up)

- Each MC (Main Cross Connect) required for additional work will have the following possible corrections:
- Re-locate existing rack and all attached media cables connected and terminated onto the rack; Re-test some or all existing circuits for test certification; Re-label some or all existing cabling circuits. Confirm or provide a qualified TGB for proper earthing and bonding of the MC.

Additional Work to IC (Re-Work, Clean-Up)

- Each IC (Intermediate Cross Connect) required for additional work will have the following possible corrections:
- Re-locate existing rack and all attached media cables connected and terminated onto the rack; Re-test some or all existing circuits for test certification; Re-label some or all existing cabling circuits. Confirm or provide a qualified TGB for proper earthing and bonding of the IC.

Connecting Campus MC to Campus IC (Inside Plant 12-strand fiber optic cable only)

- All MC to IC design will be of the indoor type with a maximum length of 200' with not more than 3 inside cores through what may be firewalls to deliver pathway.
- RGC will provide wire management to ensure a comprehensive, neat completion of work.
- AS BUILT schematics on cabling performed will be supplied.

Connecting Campus MC to Campus IC (Inside Plant) (Turn-Key)

- ◆ All MC to IC design will be of the indoor type with a maximum length of 200' with not more than 3 inside cores through what may be firewalls to deliver pathway.
- ◆ Furnish and install one (1) 4' x 19" Swing Away Rack onto a ¾" plywood backboard that has been fire retardant treated and firmly attached to the wall area.
- ◆ RGC will provide wire management to ensure a comprehensive, neat completion of work.
- ◆ AS BUILT schematics on cabling performed will be supplied.

Single Cable Drops

- ◆ Each single drop location will be serviced by the following cables: one (1) each category 5e, 4-pair cable. The number of locations will be determined by RGC, and PSI prior to installation. Each Single Drop is priced using existing pathway only – existing pathway definition means RGC will not have to core through walls, add conduit, or add Raceway.
- ◆ The following is the dual drop termination scheme (the equipment to be connected to is assumed to already be in place at the telecommunications closet end) for each cable:
- ◆ Work Area Outlet:

Cable

Termination

Category 5e Data

RJ45 Category 5e 568B Insert

◆ Telecom Room:

Cable

Termination

Category 5e Data

Rack mounted 48-port Cat 5e RJ45 568B
high density patch panel

- ◆ RGC We will provide wire management to ensure a comprehensive, neat completion of work.
- ◆ AS BUILT schematics on work to be performed will be supplied.

Dual Cable Drops

- ◆ Each dual drop location will be serviced by the following cables: two (2) each category 5e, 4-pair cables. The number of locations will be determined by RGC and PSI prior to installation. Each Dual Drop is priced using existing pathway only – existing pathway definition means RGC will not have to core through walls, add conduit, or add Raceway.
- ◆ The following is the dual drop termination scheme (the equipment to be connected to is assumed to already be in place at the telecommunications closet end) for each cable:
- ◆ Work Area Outlet:

Cable

Termination

Category 5e Data

RJ45 Category 5e 568B Insert

◆ Telecom Room:

Cable

Termination

Category 5e Data

Rack mounted 48-port Cat 5e RJ45 568B
high density patch panel

- ◆ RGC will provide wire management to ensure a comprehensive, neat completion of work.
- ◆ AS BUILT schematics on work to be performed will be supplied.

Dual Data Drops

- ◆ Each dual drop location will be serviced by the following cables: two (2) each category 5e, 4-pair cables. The number of locations will be determined by RGC and

PSI prior to installation. Each Dual Drop is priced using existing pathway only – existing pathway definition means RGC will not have to core through walls, add conduit, or add Raceway.

- ◆ The following is the dual drop termination scheme (the equipment to be connected to is assumed to already be in place at the telecommunications closet end) for each cable:

- ◆ Work Area Outlet:

<u>Cable</u>	<u>Termination</u>
Category 5e Data	RJ45 Category 5e 568B Insert
Category 5e Data	RJ45 Category 5e 568B Insert

- ◆ Telecom Room:

<u>Cable</u>	<u>Termination</u>
(2) Category 5e Data	Rack mounted 48-port Cat 5e RJ45 568B high density patch panel

- ◆ RGC will provide wire management to ensure a comprehensive, neat completion of work.
- ◆ AS BUILT schematics on work to be performed will be supplied.

Wiring a Lab within a Room – “In-Wall” (IW) Design

- ◆ Lab Design cable drops will not exceed 100' in length and shall not include any core or firewall penetrations for this S.O.W.
- ◆ Furnish and install up to twenty (20) Category 5e, 4-pair twisted, Plenum solid core copper cable drops into a single classroom (Lab). These cable drops will be through sheetrock pathways with dropped acoustical ceilings and will be suspended onto Caddy Cat.32 “J” Hooks at no more than 5' intervals on red metal or on ceiling support positions but not on ceiling grids or ceiling hanging wires.
- ◆ Furnish and install up to five (5) Quad-Plex Faceplates of single gang construction for W.A.O. (Work Area Outlet) design to deliver service to the students. These faceplates will be flush mounted into Sheetrock walls utilized with Caddy BB-10's.
- ◆ Furnish and install one (1) 48-port modular patch panel for final central Horizontal connection point.
- ◆ Furnish and install one (1) Wire Manager for neat and proper pathway placement.
- ◆ Furnish and install up to twenty (20) Jacks into faceplates.
- ◆ Furnish and install up to seventy two (72) Category 5e Patch Cables in either 1 or 3-meter design for use at the W.A.O. or at the Patch Panel.
- ◆ RGC will provide wire management to ensure a comprehensive, neat completion of work.

- ◆ AS BUILT schematics on cabling performed will be supplied.

Wiring a Lab within a Room – “Outer-Wall” (OW) Design

- Lab Design cable drops will not exceed 100' in length and shall not include any core or firewall penetrations for this S.O.W.
- Furnish and install up to twenty (20) Category 5e, 4-pair twisted, Plenum solid core copper cable drops into a single classroom Lab. These cable drops will run down the outer wall with Wiremold proceeding from dropped acoustical ceilings and will be suspended onto Caddy Cat.32 “J” Hooks at no more than 5' intervals on red metal or on ceiling support positions but not on ceiling grids or ceiling hanging wires.
- Furnish and install up to five (5) Quad-Plex Faceplates of single gang construction for W.A.O. (Work Area Outlet) design to deliver service to the students. These faceplates will be surface mounted onto the outside of the wall utilizing Wiremold and on surface mounted boxes.
- Furnish and install one (1) 48-port modular patch panel for final central Horizontal connection point.
- Furnish and install one (1) Wire Manager for neat and proper pathway placement.
- Furnish and install up to twenty (20) Jacks into faceplates.
- Furnish and install up to seventy-two (72) Category 5e Patch Cables in either 1 or 3-meter design for use at the W.A.O. or at the Patch Panel.
- RGC will provide wire management to ensure a comprehensive, neat completion of work.
- AS BUILT schematics on cabling performed will be supplied.

Existing Cable Removal

- RGC will include the removal of any abandoned cable left within the schools as a result of the replacement of an existing media with the installation of a new media cable. (Data, Voice or Video)
- Any abandoned cable not replaced by RGC with the installation of a new media cable will be covered with a blank faceplate and the existing cable left within the walls and or ceilings.

1. Functional Testing

Functional Testing will be performed in conformance with the following:

Fiber Meter – Transmission and path loss testing (Fiber meter test method). RGC will perform fiber meter testing on all fiber optic cable installed under this SOW. Soft Copy test results will be provided.

Category 5e Cable – Category 5e compliance testing per UL standards. RGC will perform Category 5e testing on the Category 5e cable installed under this SOW in accordance with EIA/TIA standards. Soft Copy test results will be provided.

Appendix F: SIGNATURE PAGE

RGC (we) will provide, and PSI (you) agrees to accept, RGC Services (Services) for "RGC Statement of Work for Network Electronics and Cabling" under the terms and conditions of the RGC Customer Agreement and this Statement of Work. For Scope of Services, Completion Criteria, Charges and other applicable terms refer to the RGC Statement of Work dated 31 January 2003.

RGC is aware of the District's reliance on an outside source of funding (Universal Service Fund) to execute on the implementation tasks described in this SOW. Should Positive Solutions, Inc. (PSI) not receive the requested funding for E-rate 6, PSI may terminate the SOW without further obligation. Should PSI receive only partial funding, RGC will work with PSI to incorporate those portions of this SOW that can be accomplished based upon available funding. It is specifically understood by RGC and PSI that no E-rate 6 activity will occur prior to RGC's receipt from PSI of written authorization to precede. It is understood by PSI and RGC that, should full or partial funding be received by PSI, and should PSI decide to initiate work on the project, that PSI will use this SOW and RGC as designated Solution Provider, to accomplish the agreed to scope of effort under the E-Rate program, after the Board accepts the E-Rate funding.

It is understood by PSI and RGC that this SOW and its associated pricing is based upon RGC receiving written approval from PSI to proceed with E-rate 6 no later than December 31, 2003. In the event this approval is not received by this date, RGC reserves the right to restructure the SOW, with PSI's concurrence, to incorporate only those tasks that can be successfully completed by RGC prior to June 30, 2004. This proposal will remain valid through December 31, 2003

Total Charges: \$216,646.54, which includes travel and living expenses. Both of us agree that the complete agreement between us regarding these Services will consist of 1) this Statement of Work and 2) the RGC Customer Agreement (or any equivalent agreement signed by both of us).

Agreed to:

San Antonio Positive Solutions, Inc.

By


(Authorized Signature)

Name

Arturo B Smeez

Date 2/5/03

Customer Number

Customer Address

1325 North Flores

San Antonio, TX 78212

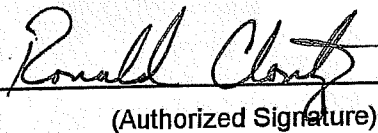
Start Date: July 1, 2003

RGC Statement of Work for
Network Electronics

Agreed to

RGC and Associates, Inc.

By


(Authorized Signature)

Name

Ronald Clontz

Date 2/5/03

RGC Customer Agreement No.

RGC Office Address:

115 E. Travis St. Suite 1500

San Antonio, TX 78205

End Date: June 30, 2004

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EXHIBIT - F

Arturo Suarez
POSITIVE SOLUTIONS CHARTER SCHOOL
1325 N FLORES, SUITE 100
SAN ANTONIO, TX 78212



First Demand Payment Letter

06/27/2018

Arturo Suarez
 Positive Solutions Charter School
 1325 N. Flores
 Suite 100
 San Antonio, TX 78212

DEMAND FOR PAYMENT OF DEBT OWED TO THE UNITED STATES

This letter is to notify you that the Universal Service Administrative Company ("USAC"), acting on behalf of the Federal Communications Commission (FCC or Commission), has determined that Positive Solutions Charter School received improper payments of \$161,154.39 from the Universal Service Fund. On 06/17/2017, USAC sent Positive Solutions Charter School a Commitment Adjustment Letter informing Positive Solutions Charter School of the decision to recover funds for the Funding Request Number(s) (FRNs) listed on the Adjustment Report included in this demand letter. A summary of the relevant FRNs with the corresponding recovery amounts and explanations for the recovery sought is as follows:

Total Due **\$161,154.39**
Due Date **7/27/2018**

Note: Your due date is adjusted to the next business day when the due date is on a weekend or Federal Holiday

<i>FCC Form 471</i>	<i>FRN</i>	<i>Commitment adjustment</i>	<i>Total amount to be recovered</i>	<i>Explanation(s)</i>	<i>Party to recover from</i>
367995	1002895	\$161,154.39	\$161,154.39	Cost Effectiveness	Applicant

See Attached Adjustment Report for more information on the specific FRNs and Explanations listed above.



**Universal Service
Administrative Co.**

The FCC has determined that the \$161,154.39 overpayment is a debt owed to the United States (the "Debt") and has instructed USAC to collect payment of the Debt pursuant to the Debt Collection Improvement Act, 31 U.S.C. §3701, et seq. ("DCIA"). Accordingly, USAC hereby demands that Positive Solutions Charter School immediately pay the Debt, which is due and owing without further demand within thirty (30) days of the date of this letter (the "Due Date"). Payment instructions are provided below.

If Positive Solutions Charter School does not pay the Debt in full on or by the Due Date, the Debt will be delinquent on that date and thereafter, may accrue interest, administrative costs and penalties, in accordance with the DCIA. For further information on the DCIA, and the Treasury and FCC debt collection regulations implementing the DCIA, please see 31 U.S.C. § 3701, et seq., 31 C.F.R. § 900, et seq. and 47 C.F.R. § 1.1901, et seq.

Pursuant to the FCC's Red Light Rule, unless an administrative appeal of the Commitment Adjustment Letter is pending, neither the FCC nor USAC will act on any Positive Solutions Charter School funding application(s) or any payment request(s), until the Debt and all charges which may have accrued are paid in full or resolved. In addition, if all or a portion of the Debt and any accrued charges remain after the Due Date, unless an appeal is pending or other satisfactory arrangements have been made, all Positive Solutions Charter School applications and requests for benefits will be dismissed. For more information on the FCC's Red Light Rule, please see <https://www.fcc.gov/encyclopedia/red-light-frequently-asked-questions>. In determining whether an entity is delinquent for purposes of the FCC's Red Light Rule, the FCC and USAC match the FCC Registration Number of the Debtor to the FCC's database of debts; the Debtor's FCC Registration Number will be linked to all other FCC Registration Numbers associated with the same Taxpayer Identification Number (TIN).

In addition, if Positive Solutions Charter School does not pay the Debt and all accrued charges in full by the Due Date, the FCC may instruct USAC to offset or recoup the Debt and any accrued charges against any monies, including Universal Service Fund disbursements, USAC or the FCC may owe Positive Solutions Charter School.

Further, unless an appeal is pending or other satisfactory arrangements have been made, no later than 90 days from the date of this demand letter, USAC will refer the delinquent Debt and any accrued charges to the United States Treasury for further collection action, in which event the United States Treasury will impose an additional surcharge (currently 28% of the Debt). The United States Treasury may offset the Debt and any accrued charges against monies owed to you by the United States. In addition, the United State Treasury may report Positive Solutions Charter School delinquency to credit bureaus and Positive Solutions Charter School may be denied federal financial assistance.



**Universal Service
Administrative Co.**

Positive Solutions Charter School has 15 days from the date of this letter to request a review of the records supporting this Debt. Positive Solutions Charter School may also request a written agreement to repay the Debt, but only if it makes the request within 15 days of the date of this letter. An explanation of the process by which Positive Solutions Charter School may request a repayment agreement can be found at <http://usac.org/cont/making-payments/payment-plans.aspx>. All payment plan requests are subject to FCC approval.

You previously received information regarding your appeal rights in the Commitment Adjustment Letter.

Payment of the Debt should be made as follows:

U.S. Postal Service and Standard Mail

USAC
PO Box 105056
Atlanta, GA 30348-5056

ACH payments in CCD+ format

ABA Routing # 071000039
Account # 5590045653
100 West 33rd Street, New York, NY 10001

Courier and Overnight Packages

Bank of America c/o USAC
Lockbox 105056
1075 Loop Road
Atlanta, GA 30337
(404) 209-6377

Wire Transfers

Bank of America
100 West 33rd Street, New York, NY 10001
ABA Routing # 026009593
Account # 5590045653
Account Type: DDA
Account Name: UNIVERSAL SERVICE
ADMINISTRATIVE COMPANY

If you have questions, or believe that you received this notification in error, please contact us or call the USAC Client Service Bureau at (888) 203-8100 for further assistance.



Universal Service
Administrative Co.

Adjustment Report

FCC Form 471 Application Number:	367995
Funding Request Number:	1002895
Commitment Adjustment:	\$161,154.39
Total Amount to Be Recovered:	\$000.00
Explanation(s):	COST EFFECTIVENESS
Party to Recover From:	APPLICANT
Funding Year:	2003
Billed Entity Number:	226729
Services Ordered:	Internal CONNECTIONS
Service Provider Name:	RGC and ASSOCIATES, INC.
SPIN:	143025918
Original Funding Commitment:	\$161,154.39
Adjusted Funding Commitment:	\$0.00
Funds Disbursed to Date:	\$161,154.39

Funding Commitment Adjustment Explanation –

After a thorough investigation, it has been determined that this funding commitment must be rescinded in full. During the course of review, it was determined that the funds were erroneously committed for the funding request 1002895, which was not justified as cost effective. The FCC rules require that, in selecting the service provider, the applicant must select the most cost effective service or equipment offering, with price being the primary factor, which will result in it being the most effective means of meeting educational needs and technology plan goals. Additionally, the applicant technology plans for requested services should be based on an assessment of their reasonable needs. Applicants that request services that are beyond their reasonable needs and thus not cost effective have violated the above rules. Since FRN 1002895 exceeded the applicant's reasonable needs, this funding commitment is rescinded in full and SLD will seek recovery of any improperly disbursed funds from the applicant.

Positive Solutions High School

1325 North Flores, Suite 100, San Antonio, TX 78212

July 12, 2018

By Facsimile: (202) 776-0080
Certified Mail, Return Receipt Requested
No. 7016 1970 0000 9112 2756

Universal Service Administrative Company
700 12th Street, NW
Suite 900
Washington, DC 20005

**RE: Request for Review of Records Supporting Debt
Relating to FRN 1002895 (FCC Form 471: 367995)**

We are in receipt of the First Demand Payment Letter (Demand Letter) dated June 27, 2018, from Universal Service Administrative Company (USAC) to Positive Solutions Charter School (School), the open-enrollment charter school operated by San Antonio Positive Solutions, Inc., a Texas nonprofit corporation and tax-exempt organization pursuant to Section 501(c)(3) of the U.S. Internal Revenue Code.

Although the School is requesting by separate mailing and even date, a plan for the return E-rate funds in installments, the School first requests the review of the records supporting the USAC's determination.

Initially, I must point out that the School has not received USAC's decision relating to our appeal that was filed on August 15, 2017, a copy of which is attached to this letter and perhaps the appeal was inadvertently overlooked in the issuance of the USAC Adjustment Demand? But, because we do not have the appeal decision we also do not have information pertinent and necessary to prepare this request for review. Moreover, in having failed to provide the School with its decision on the School's appeal, the School is effectively denied its opportunity to appeal to the Federal Communications Commission.

Additionally, and significantly, USAC's June 16, 2017 Notification of Commitment Adjustment Letter provided only limited information disclosed on the Funding Commitment Adjustment Report Form 471 Application Number: 367995 (Report). As our legal counsel argued in the appeal SLP "did not identify specific rules supporting this determination except to state that [the School] was required to "select the most cost effective service or equipment offering, with price being the primary factor, which will result in it being the most effective means of meeting educational needs and technology goals."

Moreover, the School has not, to date, received any report let alone documents or information constituting the "...thorough investigation", described in the SLP Report. As a result, we have absolutely no reference to statutory and regulatory authorities relied upon to reach a

July 12, 2018

RE: Request for Review of Records Supporting Debt Relating to FRN 1002895 (FCC Form 471: 367995)

Page 2

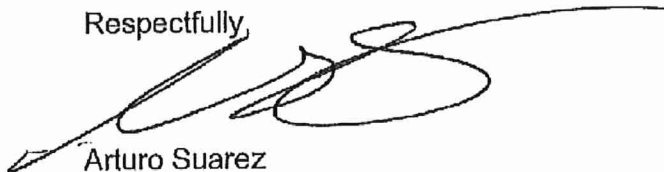
determination to rescind the funding commitment.¹ Accordingly, the School believes that, upon review of the records supporting the debt levied upon the School, USAC will find that the School was not afforded information and opportunities that would afford the School equitable consideration in its attempt to understand and appeal USAC's determination.

Finally, because the purchases that are under review in this matter occurred in 2003, we ask USAC to consider the work and analysis codified in a November 2005 staff report² adopted by the Subcommittee on Oversight and Investigations of the Committee on Energy and Commerce of the U.S. House of Representatives, 109th Congress, finding that "Unclear rules and program procedures and delays in program funding generate confusion among applicants and vendors, and are a source of waste." Were the SLP to have provided the School with details of its findings and the authorities and legal basis for its determination, the School could have demonstrated that, at the time of its use of e-Rate funding in 2003, it had followed USAC's rules and program procedures that were in place at that time, however inapplicable or inappropriate those rules and procedures may be today, and that its use of e-Rate funds was, in fact, a cost effective means of meeting educational needs and technology plan goals so that such use addressed the reasonable needs of the School at that time.

In light of the above, the School requests that USAC reconsider its levy upon the School and to provide the School with a full and fair opportunity to demonstrate that its use of e-Rate funding met statutory and regulatory requirements.

Should you require additional information, please contact me.

Respectfully,



Arturo Suarez
Superintendent

Enclosures

¹ Although the School's legal counsel received various documents from the SLP on August 24, 2017, SLP's response to our attorney's request for documents was provided after the August 17, 2017, deadline to file the School's appeal, which was timely filed on that date. Moreover, the School did not find any beneficial information in the documents provided by SLP, which consisted of School records, USAC or FCC filings and forms, and electronic mail. Importantly, the SLP provided documents that did not include a report or other disclosures relating to its "thorough investigation" or the findings and legal basis for its determination to rescind the funding commitment in full and that pertained to other applications and funding request numbers and not to the one under review and at issue in this and other related correspondence, including the appeal filed on August 17, 2017.

² The staff report may be found at <https://www.govinfo.gov/content/pkg/CPRT-109HPRT24466/html/CPRT-109HPRT24466.htm>.



Universal Service
Administrative Co.

Second Demand Payment Letter

Arturo Suarez
POSITIVE SOLUTIONS CHARTER SCHOOL
1325 N Flores, Suite 100
San Antonio, TX 78212

7/30/2018

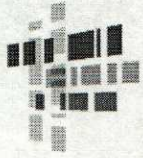
Second Demand for Payment of a Debt Owed to the United States

This letter is a second demand for payment of a debt owed to the United States. On June 27, 2018 USAC sent POSITIVE SOLUTIONS CHARTER SCHOOL a letter demanding repayment of a \$161,154.39 overpayment of Universal Service Funds to POSITIVE SOLUTIONS CHARTER SCHOOL (the "Debt").

Our records indicate that you have not paid the Debt or responded to USAC's demand letter. The Debt is now 31-60 days past due. As we informed you in our first demand letter, USAC may assess interest, penalties and administrative costs on the Debt in accordance with the Debt Collection Improvement Act, 31 U.S.C. §3701, et seq. Until the Debt and any charges which may have accrued are paid in full, all POSITIVE SOLUTIONS CHARTER SCHOOL applications and requests for benefits pending before the FCC and USAC, including funding commitments and payment requests, will be dismissed pursuant to the FCC's Red Light Rule. For more information on the FCC's Red Light Rule, please see <https://www.fcc.gov/encyclopedia/red-light-frequently-asked-questions>. In determining whether an entity is delinquent for purposes of the FCC's Red Light Rule, the Commission matches the FCC Registration Number of the Debtor to its database of debts; the Debtor's FCC Registration Number will be linked to all other FCC Registration Number's associated with the same Taxpayer Identification Number (TIN).

In addition, the FCC may instruct USAC to offset or recoup the Debt and accrued charges against any monies, including Universal Service Fund disbursements, USAC or the FCC may owe POSITIVE SOLUTIONS CHARTER SCHOOL.

Further, unless an appeal of the Debt is pending, USAC will refer the delinquent Debt and accrued charges to the United States Treasury within 90 days of the date of the First Demand Payment Letter for further collection action. If referred, the United States Treasury will impose an additional surcharge (currently 28% of the Debt). The United States Treasury may offset the Debt and all accrued charges against monies owed to you by the United States. In addition, the United State Treasury may report POSITIVE SOLUTIONS CHARTER SCHOOL delinquency to credit bureaus and POSITIVE SOLUTIONS CHARTER SCHOOL may be denied federal financial assistance.



Universal Service
Administrative Co.

You previously received information regarding your appeal rights in the Commitment Adjustment Letter and/or Recovery of Improperly Disbursed Funds Letter.

Payment of the Debt and all accrued charges should be made at www.usac.org/pay

If you have questions, or believe that you received this notification in error, please contact us or call the USAC Client Service Bureau at (888) 203-8100 for further assistance.



Universal Service
Administrative Co.

First Demand Payment Letter

06/27/2018

Arturo Suarez
Positive Solutions Charter School
1325 N. Flores
Suite 100
San Antonio, TX 78212

DEMAND FOR PAYMENT OF DEBT OWED TO THE UNITED STATES

This letter is to notify you that the Universal Service Administrative Company ("USAC"), acting on behalf of the Federal Communications Commission (FCC or Commission), has determined that Positive Solutions Charter School received improper payments of \$161,154.39 from the Universal Service Fund. On 06/17/2017, USAC sent Positive Solutions Charter School a Commitment Adjustment Letter informing Positive Solutions Charter School of the decision to recover funds for the Funding Request Number(s) (FRNs) listed on the Adjustment Report included in this demand letter. A summary of the relevant FRNs with the corresponding recovery amounts and explanations for the recovery sought is as follows:

Total Due **\$161,154.39**
Due Date **7/27/2018**

Note: Your due date is adjusted to the next business day when the due date is on a weekend or Federal Holiday

<i>FCC Form 471</i>	<i>FRN</i>	<i>Commitment adjustment</i>	<i>Total amount to be recovered</i>	<i>Explanation(s)</i>	<i>Party to recover from</i>
367995	1002895	\$161,154.39	\$161,154.39	Cost Effectiveness	Applicant

See Attached Adjustment Report for more information on the specific FRNs and Explanations listed above.



**Universal Service
Administrative Co.**

The FCC has determined that the \$161,154.39 overpayment is a debt owed to the United States (the "Debt") and has instructed USAC to collect payment of the Debt pursuant to the Debt Collection Improvement Act, 31 U.S.C. §3701, et seq. ("DCIA"). Accordingly, USAC hereby demands that Positive Solutions Charter School immediately pay the Debt, which is due and owing without further demand within thirty (30) days of the date of this letter (the "Due Date"). Payment instructions are provided below.

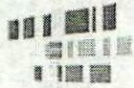
If Positive Solutions Charter School does not pay the Debt in full on or by the Due Date, the Debt will be delinquent on that date and thereafter, may accrue interest, administrative costs and penalties, in accordance with the DCIA. For further information on the DCIA, and the Treasury and FCC debt collection regulations implementing the DCIA, please see 31

U.S.C. § 3701, et seq., 31 C.F.R. § 900, et seq. and 47 C.F.R. § 1.1901, et seq.

Pursuant to the FCC's Red Light Rule, unless an administrative appeal of the Commitment Adjustment Letter is pending, neither the FCC nor USAC will act on any Positive Solutions Charter School funding application(s) or any payment request(s), until the Debt and all charges which may have accrued are paid in full or resolved. In addition, if all or a portion of the Debt and any accrued charges remain after the Due Date, unless an appeal is pending or other satisfactory arrangements have been made, all Positive Solutions Charter School applications and requests for benefits will be dismissed. For more information on the FCC's Red Light Rule, please see <https://www.fcc.gov/encyclopedia/red-light-frequently-asked-questions>. In determining whether an entity is delinquent for purposes of the FCC's Red Light Rule, the FCC and USAC match the FCC Registration Number of the Debtor to the FCC's database of debts; the Debtor's FCC Registration Number will be linked to all other FCC Registration Numbers associated with the same Taxpayer Identification Number (TIN).

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Further, unless an appeal is pending or other satisfactory arrangements have been made, no later than 90 days from the date of this demand letter, USAC will refer the delinquent Debt and any accrued charges to the United States Treasury for further collection action, in which event the United States Treasury will impose an additional surcharge (currently 28% of the Debt). The United States Treasury may offset the Debt and any accrued charges against monies owed to you by the United States. In addition, the United State Treasury may report Positive Solutions Charter School delinquency to credit bureaus and Positive Solutions Charter School may be denied federal financial assistance.



**Universal Service
Administrative Co.**

Positive Solutions Charter School has 15 days from the date of this letter to request a review of the records supporting this Debt. Positive Solutions Charter School may also request a written agreement to repay the Debt, but only if it makes the request within 15 days of the date of this letter. An explanation of the process by which Positive Solutions Charter School may request a repayment agreement can be found at <http://usac.org/cont/making-payments/payment-plans.aspx>. All payment plan requests are subject to FCC approval.

You previously received information regarding your appeal rights in the Commitment Adjustment Letter.

Payment of the Debt should be made as follows:

U.S. Postal Service and Standard Mail

USAC
PO Box 105056
Atlanta, GA 30348-5056

ACH payments in CCD+ format

ABA Routing # 071000039
Account # 5590045653
100 West 33rd Street, New York, NY 10001

Courier and Overnight Packages

Bank of America c/o USAC
Lockbox 105056
1075 Loop Road
Atlanta, GA 30337
(404) 209-6377

Wire Transfers

Bank of America
100 West 33rd Street, New York, NY 10001
ABA Routing # 026009593
Account # 5590045653
Account Type: DDA
Account Name: UNIVERSAL SERVICE
ADMINISTRATIVE COMPANY

If you have questions, or believe that you received this notification in error, please contact us or call the USAC Client Service Bureau at (888) 203-8100 for further assistance.



Universal Service
Administrative Co.

Adjustment Report

FCC Form 471 Application Number:	367995
Funding Request Number:	1002895
Commitment Adjustment:	\$161,154.39
Total Amount to Be Recovered:	\$000.00
Explanation(s):	COST EFFECTIVENESS

Party to Recover From:	APPLICANT
Funding Year:	2003
Billed Entity Number:	226729
Services Ordered:	Internal CONNECTIONS
Service Provider Name:	RGC and ASSOCIATES, INC.
SPIN:	143025918
Original Funding Commitment:	\$161,154.39
Adjusted Funding Commitment:	\$0.00
Funds Disbursed to Date:	\$161,154.39

Funding Commitment Adjustment Explanation -

After a thorough investigation, it has been determined that this funding commitment must be rescinded in full. During the course of review, it was determined that the funds were erroneously committed for the funding request 1002895, which was not justified as cost effective. The FCC rules require that, in selecting the service provider, the applicant must select the most cost effective service or equipment offering, with price being the primary factor, which will result in it being the most effective means of meeting educational needs and technology plan goals. Additionally, the applicant technology plans for requested services should be based on an assessment of their reasonable needs. Applicants that request services that are beyond their reasonable needs and thus not cost effective have violated the above rules. Since FRN 1002895 exceeded the applicant's reasonable needs, this funding commitment is rescinded in full and SLD will seek recovery of any improperly disbursed funds from the applicant.

Positive Solutions High School

1325 North Flores, Suite 100, San Antonio, TX 78212

August 9, 2018

***By Certified Mail, Return Receipt Requested
No. 7016 1370 0001 0048 2112***

Universal Service Administrative Company
700 12th Street, NW, Suite 900
Washington, DC 20005

RE: DEMAND FOR PAYMENT OF DEBT OWED TO THE UNITED STATES
Total Due: \$161,154.39
Due Date: 7/27/2018

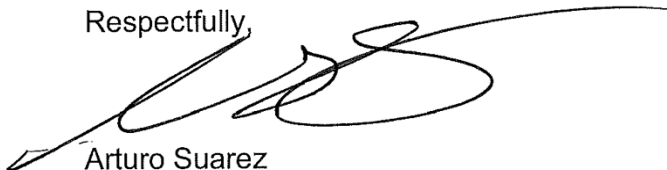
We are in receipt of the enclosed Second Notice of Collection in the above-captioned matter.

Please note our previous submission to USAC regarding Appeal of Notification of Commitment Adjustment Letter (dated August 15, 2017) and Request for Review of Records Supporting Debt Relating to FRN 1002895 (FCC Form 271: 367995) (dated July 12, 2018), copies of which are enclosed.

We anticipated a response to each of these matters.

Please inform if our petitions and requests have been summarily denied.

Respectfully,



Arturo Suarez
Superintendent

Enclosures

cc: ***By Certified Mail, Return Receipt
Requested No. 7016 1370 0001 0048 2105***

Universal Service Administrative Company
P. O. Box 105056
Atlanta, Georgia 30348-5056
(Letter and Enclosures)



Universal Service
Administrative Co.

Second Demand Payment Letter

Arturo Suarez
POSITIVE SOLUTIONS CHARTER SCHOOL
1325 N Flores, Suite 100
San Antonio, TX 78212

7/30/2018

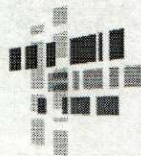
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Our records indicate that you have not paid the Debt or responded to USAC's demand letter. The Debt is now 31-60 days past due. As we informed you in our first demand letter, USAC may assess interest, penalties and administrative costs on the Debt in accordance with the Debt Collection Improvement Act, 31 U.S.C. §3701, et seq. Until the Debt and any charges which may have accrued are paid in full, all POSITIVE SOLUTIONS CHARTER SCHOOL applications and requests for benefits pending before the FCC and USAC, including funding commitments and payment requests, will be dismissed pursuant to the FCC's Red Light Rule. For more information on the FCC's Red Light Rule, please see <https://www.fcc.gov/encyclopedia/red-light-frequently-asked-questions>. In determining whether an entity is delinquent for purposes of the FCC's Red Light Rule, the Commission matches the FCC Registration Number of the Debtor to its database of debts; the Debtor's FCC Registration Number will be linked to all other FCC Registration Number's associated with the same Taxpayer Identification Number (TIN).

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Universal Service
Administrative Co.

You previously received information regarding your appeal rights in the Commitment Adjustment Letter and/or Recovery of Improperly Disbursed Funds Letter.

Payment of the Debt and all accrued charges should be made at www.usac.org/pay

If you have questions, or believe that you received this notification in error, please contact us or call the USAC Client Service Bureau at (888) 203-8100 for further assistance.



Universal Service
Administrative Co.

First Demand Payment Letter

06/27/2018

Arturo Suarez
Positive Solutions Charter School
1325 N. Flores
Suite 100
San Antonio, TX 78212

DEMAND FOR PAYMENT OF DEBT OWED TO THE UNITED STATES

This letter is to notify you that the Universal Service Administrative Company ("USAC"), acting on behalf of the Federal Communications Commission (FCC or Commission), has determined that Positive Solutions Charter School received improper payments of \$161,154.39 from the Universal Service Fund. On 06/17/2017, USAC sent Positive Solutions Charter School a Commitment Adjustment Letter informing Positive Solutions Charter School of the decision to recover funds for the Funding Request Number(s) (FRNs) listed on the Adjustment Report included in this demand letter. A summary of the relevant FRNs with the corresponding recovery amounts and explanations for the recovery sought is as follows:

Total Due **\$161,154.39**
Due Date **7/27/2018**

Note: Your due date is adjusted to the next business day when the due date is on a weekend or Federal Holiday

<i>FCC Form 471</i>	<i>FRN</i>	<i>Commitment adjustment</i>	<i>Total amount to be recovered</i>	<i>Explanation(s)</i>	<i>Party to recover from</i>
367995	1002895	\$161,154.39	\$161,154.39	Cost Effectiveness	Applicant

See Attached Adjustment Report for more information on the specific FRNs and Explanations listed above.



**Universal Service
Administrative Co.**

The FCC has determined that the \$161,154.39 overpayment is a debt owed to the United States (the "Debt") and has instructed USAC to collect payment of the Debt pursuant to the Debt Collection Improvement Act, 31 U.S.C. §3701, et seq. ("DCIA"). Accordingly, USAC hereby demands that Positive Solutions Charter School immediately pay the Debt, which is due and owing without further demand within thirty (30) days of the date of this letter (the "Due Date"). Payment instructions are provided below.

If Positive Solutions Charter School does not pay the Debt in full on or by the Due Date, the Debt will be delinquent on that date and thereafter, may accrue interest, administrative costs and penalties, in accordance with the DCIA. For further information on the DCIA, and the Treasury and FCC debt collection regulations implementing the DCIA, please see 31

U.S.C. § 3701, et seq., 31 C.F.R. § 900, et seq. and 47 C.F.R. § 1.1901, et seq.

Pursuant to the FCC's Red Light Rule, unless an administrative appeal of the Commitment Adjustment Letter is pending, neither the FCC nor USAC will act on any Positive Solutions Charter School funding application(s) or any payment request(s), until the Debt and all charges which may have accrued are paid in full or resolved. In addition, if all or a portion of the Debt and any accrued charges remain after the Due Date, unless an appeal is pending or other satisfactory arrangements have been made, all Positive Solutions Charter School applications and requests for benefits will be dismissed. For more information on the FCC's Red Light Rule, please see <https://www.fcc.gov/encyclopedia/red-light-frequently-asked-questions>. In determining whether an entity is delinquent for purposes of the FCC's Red Light Rule, the FCC and USAC match the FCC Registration Number of the Debtor to the FCC's database of debts; the Debtor's FCC Registration Number will be linked to all other FCC Registration Numbers associated with the same Taxpayer Identification Number (TIN).

In addition, if Positive Solutions Charter School does not pay the Debt and all accrued charges in full by the Due Date, the FCC may instruct USAC to offset or recoup the Debt and any accrued charges against any monies, including Universal Service Fund disbursements, USAC or the FCC may owe Positive Solutions Charter School.

Further, unless an appeal is pending or other satisfactory arrangements have been made, no later than 90 days from the date of this demand letter, USAC will refer the delinquent Debt and any accrued charges to the United States Treasury for further collection action, in which event the United States Treasury will impose an additional surcharge (currently 28% of the Debt). The United States Treasury may offset the Debt and any accrued charges against monies owed to you by the United States. In addition, the United State Treasury may report Positive Solutions Charter School delinquency to credit bureaus and Positive Solutions Charter School may be denied federal financial assistance.



**Universal Service
Administrative Co.**

Positive Solutions Charter School has 15 days from the date of this letter to request a review of the records supporting this Debt. Positive Solutions Charter School may also request a written agreement to repay the Debt, but only if it makes the request within 15 days of the date of this letter. An explanation of the process by which Positive Solutions Charter School may request a repayment agreement can be found at <http://usac.org/cont/making-payments/payment-plans.aspx>. All payment plan requests are subject to FCC approval.

You previously received information regarding your appeal rights in the Commitment Adjustment Letter.

Payment of the Debt should be made as follows:

U.S. Postal Service and Standard Mail

USAC
PO Box 105056
Atlanta, GA 30348-5056

ACH payments in CCD+ format

ABA Routing # 071000039
Account # 5590045653
100 West 33rd Street, New York, NY 10001

Courier and Overnight Packages

Bank of America c/o USAC
Lockbox 105056
1075 Loop Road
Atlanta, GA 30337
(404) 209-6377

Wire Transfers

Bank of America
100 West 33rd Street, New York, NY 10001
ABA Routing # 026009593
Account # 5590045653
Account Type: DDA
Account Name: UNIVERSAL SERVICE
ADMINISTRATIVE COMPANY

If you have questions, or believe that you received this notification in error, please contact us or call the USAC Client Service Bureau at (888) 203-8100 for further assistance.



Universal Service
Administrative Co.

Adjustment Report

FCC Form 471 Application Number:	367995
Funding Request Number:	1002895
Commitment Adjustment:	\$161,154.39
Total Amount to Be Recovered:	\$000.00
Explanation(s):	COST EFFECTIVENESS

Party to Recover From:	APPLICANT
Funding Year:	2003
Billed Entity Number:	226729
Services Ordered:	Internal CONNECTIONS
Service Provider Name:	RGC and ASSOCIATES, INC.
SPIN:	143025918
Original Funding Commitment:	\$161,154.39
Adjusted Funding Commitment:	\$0.00
Funds Disbursed to Date:	\$161,154.39

Funding Commitment Adjustment Explanation -

After a thorough investigation, it has been determined that this funding commitment must be rescinded in full. During the course of review, it was determined that the funds were erroneously committed for the funding request 1002895, which was not justified as cost effective. The FCC rules require that, in selecting the service provider, the applicant must select the most cost effective service or equipment offering, with price being the primary factor, which will result in it being the most effective means of meeting educational needs and technology plan goals. Additionally, the applicant technology plans for requested services should be based on an assessment of their reasonable needs. Applicants that request services that are beyond their reasonable needs and thus not cost effective have violated the above rules. Since FRN 1002895 exceeded the applicant's reasonable needs, this funding commitment is rescinded in full and SLD will seek recovery of any improperly disbursed funds from the applicant.



Schulman,
Lopez, Hoffer
& Adelstein, LLP

517 SOLEDAD STREET
SAN ANTONIO, TEXAS 78205-1508
TELEPHONE: (210) 538-5385 FACSIMILE: (210) 538-5384
WWW.SLH-LAW.COM & WWW.K12LAW.COM

ROBERT A. SCHULMAN
RSCHULMAN@SLH-LAW.COM

ATTORNEYS AND COUNSELORS FOR TEXAS PUBLIC SCHOOLS AND LOCAL GOVERNMENT

August 15, 2017

By Certified Mail, Return Receipt
Requested No. 7016 1970 0000 9112 3210

Letter of Appeal
Schools and Libraries Program – Correspondence Unit
30 Lanidex Plaza West
P. O. Box 685
Parsippany, NJ 07054-0685

RE: Appeal of Notification of Commitment Adjustment Letter

Billed Entity Name	San Antonio Positive Solutions, Inc. DBA Positive Solutions Charter School
Billed Entity Number	226729
Contact Person	Robert A. Schulman, Attorney-at-Law
Contract Information: Mailing Address Phone Number Fax Number Email	517 Soledad Street, San Antonio, TX 78205 (210) 538-5385 (210) 538-5384 RSchulman@SLH-Law.com
Service Provider	RGC and Associates, Inc.
Funding Year	2003
Application Type and Application Number	Form 471, Application No. 367995
Funding Request Number	1002895
FCC Registration Number	0012546479
Appeal Reason	Determination to fully rescind funding commitment falls outside of record retention period.

August 15, 2017
Schools and Libraries Program – Correspondence Unit
RE: Appeal of Notification of Commitment Adjustment Letter, Page 2

To Whom It May Concern:

We are in receipt of the Notification of Commitment Adjustment Letter dated June 16, 2017 (“Notice”), issued by the School and Libraries Program (“SLP”) of the Universal Service Administrative Company (“USAC”) to our client, San Antonio Positive Solutions, Inc. DBA Positive Solutions Charter School (“SAPS”). On behalf of SAPS, we hereby submit this appeal of the Notice to USAC.

Reason for Appeal

The USAC Notice informed SAPS of its decision to fully rescind the funding commitment. The reason offered was an SLP review that “determined that the funds were erroneously committed for the funding request 1002895....” as “... not justified as cost effective.” The Notice did not identify specific rules supporting this determination except to state that SAPS was required to “select the most cost effective service or equipment offering, with price being the primary factor, which will result in it being the most effective means of meeting educational needs and technology goals.”

In that the applicable rule was not identified, we surmise that USAC alleges that SAPS failed to adhere to 47 CFR §§ 54.504 and 54.511, the CFRs in effect at the time that SAPS received its Funding Commitment Decision Letter dated March 30, 2004 (“Funding Letter”).

It is SAPS’ position in this appeal that it did fully comply with 47 CFR §§ 54.504 and 54.511. Notably, in response to SAPS’ solicited bids in 2003, it received a response from only one vendor, the selected vendor, RGC and Associates, Inc. Please refer to Exhibits A and B, notarized Affidavits of Arturo Suarez and Pamela Solitaire, respectively. As no other responsive bid was received, RGC, an E-rate qualified vendor, was the one and only “cost effective” vendor. SAPS did not retain these 13-year-old records, specifically, the vendor solicitation or bidder matrix (if there was a matrix) related to the statements of Mr. Suarez and Ms. Solitaire.

Significantly, at 47 CFR § 54.516(a), in effect at the time that SAPS received its Funding Letter, we find the following requirement:

Recordkeeping requirements. Schools and libraries shall be required to maintain for their purchases of telecommunications and other supported services at discounted rates the kind of procurement records that they maintain for other purchases.

The Funding Letter further stated:

RETAIN DOCUMENTATION – Applicants and service providers must retain documentation, including but not limited to, documents showing:

- compliance with all applicable competitive bidding requirements,

August 15, 2017

Schools and Libraries Program – Correspondence Unit

RE: Appeal of Notification of Commitment Adjustment Letter, Page 3

- products and/or services delivered (e.g., customer bills detailing make, model and serial number),
- resources necessary to make effective use of E-rate discounts, including the purchase of equipment such as workstations not eligible for support,
- the specific location of each item of E-rate funded equipment, and
- the applicant has paid the non-discount portion.

These documents must be retained and available for review for 5 years. (emphasis added).

Subsequent to the Funding Letter came more current administrative law, where we find the following rule at 47 CFR § 54.516(a) in effect during the period September 13, 2004 through August 18, 2014:

Recordkeeping requirements—(1) Schools and libraries. Schools and libraries shall retain all documents related to the application for, receipt, and delivery of discounted telecommunications and other supported services for at least 5 years after the last day of service delivered in a particular Funding Year. Any other document that demonstrates compliance with the statutory or regulatory requirements for the schools and libraries mechanism shall be retained as well. Schools and libraries shall maintain asset and inventory records of equipment purchased as components of supported internal connections services sufficient to verify the actual location of such equipment *for a period of five years after purchase.* (emphasis added).

Thus, under the record retention requirements in effect during the period of time preceding SLP's Notice, SAPS was not required to, nor did it retain records of its solicitation for proposals responsive to the subject matter of the Notice upon which USAC's determination is based.

Additionally, in its Fifth Report and Order adopted on August 4, 2004 ("Order"), the Federal Communications Commission ("FCC") proffered the following policy:

32. *Administrative Limitations Period for Audits or Other Investigations by the Commission or USAC.* We believe that some limitation on the timeframe for audits or other investigations is desirable in order to provide beneficiaries with certainty and closure in the E-rate applications and funding processes. For administrative efficiency, the time frame for such inquiry should match the record retention requirements and, similarly, should go into effect for Funding Year 2004. *Accordingly, we announce our policy that we will initiate and complete any inquiries to determine whether or not statutory or rule violations exist within a five year period after final delivery of service for a specific funding year.* We note that USAC and the Commission have several means of determining whether a violation has occurred, including reviewing the application, post application year auditing, invoice review and investigations. Under the policy we adopt today, USAC and the Commission shall carry out any audit or investigation

August 15, 2017
Schools and Libraries Program – Correspondence Unit
RE: Appeal of Notification of Commitment Adjustment Letter, Page 4


that may lead to discovery of any violation of the statute or a rule within five years of the final delivery of service for a specific funding year.¹

33. In the E-rate context, disbursements often occur for a period up to two years beyond the funding year. Moreover, audit work typically is not performed until after the disbursement cycle has been completed. *For consistency, our policy for audits and other investigations mirrors the time that beneficiaries are required to retain documents pursuant to the rule adopted in this order. We believe that conducting inquiries within five years strikes an appropriate balance between preserving the Commission's fiduciary duty to protect the fund against waste, fraud and abuse and the beneficiaries' need for certainty and closure in their E-rate application processes.* (emphasis added).

Commensurately, the FCC adopted an amendment to 47 CFR § 54.516(a) limiting the required retention of records to five (5) years. In issuing its Notice, USAC is essentially setting aside the FCC's Order regarding the "limitation on the timeframe for audits or other investigations." Accordingly, pursuant to the best recollection of the SAPS administrators in charge of the matter reviewed in 2004, and to ensure consistency with the FCC's policy, we respectfully submit that USAC must reconsider and retract its decision to "fully rescind the funding commitment."

Yours truly,

**SCHULMAN, LOPEZ,
HOFFER & ADELSTEIN, LLP**



Robert A. Schulman

¹ As observed in the Fifth Report and Order issued by the Federal Communications Commission, the limitation period established here relates to the time period within which one must bring an action to establish a debt due to a violation of E-rate program rules or the statutory provisions. In contrast, the DCIA statute of limitations relates to the time period within which the FCC must act to collect the debt once established. We note that this administrative limitation period is distinct from the DCIA statute of limitations, but it is offered here to demonstrate the policy intentions of the authorities on the issue of limitations and the retention of records necessary to bring and defend claims or charges. See Footnote 55 in the Fifth Report and Order.

August 15, 2017

Schools and Libraries Program – Correspondence Unit

RE: Appeal of Notification of Commitment Adjustment Letter, Page 5

RAS:cap

Enclosures

cc: Ronald Clontz, President, RGC and Associates, Inc.
(Letter Only)

Arturo Suarez, Director, Positive Solutions Charter School
(Letter and Enclosures)

STATE OF TEXAS

COUNTY OF BEXAR

AFFIDAVIT BY ARTURO SUAREZ

Before me, the undersigned authority, on this day personally appeared Arturo B. Suarez, who being by me first duly sworn, on oath stated as follows:


My name is Arturo B. Suarez. I am over the age of 18, am of sound mind and capable of making this affidavit. I understand that if I lie in this affidavit, I may be criminally responsible.

I am the Director/Superintendent of San Antonio Positive Solutions, Inc., doing business as Positive Solutions Charter School ("SAPS"), 1325 North Flores, San Antonio, Texas 78212. I have been Director/Superintendent of SAPS since November 1, 1993. I was the Director/Superintendent of SAPS in 2003, when a Form 470, Description of Services Requested and Certification Form, was submitted by PSCS for a Network Electronics and Cabling Project ("the project") for SAPS, FRN 002895. The project was undertaken because of the need to improve technology for the benefit of both students and staff.

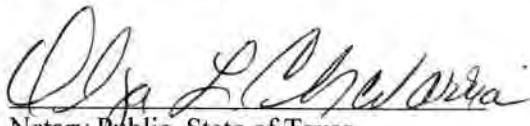
On or about February 5, 2003, SAPS filed a Form 471, Description of Services Ordered and Certification Form, for E-rate discount rates with the Universal Service Administrative Company ("USAC") to cover the costs associated with the project, identified as "Internal Connections - Cabling," which included site survey work and the installation/configuration of network electronics and cabling. In March 2004, the USAC approved SAPS' application and allocated funding for the project totaling \$494,763.03. A proposal for the project was issued on January 31, 2003.

Records of these 13year-old transactions were either lost or destroyed, but it is my best recollection that in response to our request for vendor responses to a proposal for site survey and installation/configuration of network electronics and cabling, only one vendor responded. That proposal was from the selected vendor, RGC and Associates, Inc. We did maintain, and I attach to this affidavit, that one proposal as Exhibit A-1.

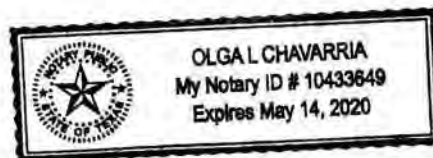
RGC and Associates, Inc. performed as contracted and was paid for its services Funding Year 2003 July 1, 2003 through June 30, 2004).


Arturo B. Suarez

Sworn to and subscribed before me on August 15, 2017, by Arturo B. Suarez, who is personally known to me.


Notary Public, State of Texas

My commission expires May 14, 2020

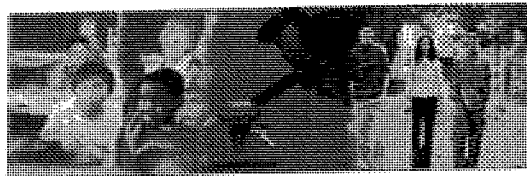


RGC and Associates, Inc. (RGC)

Statement of Work

for

NETWORK ELECTRONICS AND CABLING PROJECT



Prepared for
San Antonio Positive Solutions, Inc.
(Positive Solutions, Inc.)

January 31, 2003

The information in this Statement of Work shall not be disclosed outside Positive Solutions and shall not be duplicated, used or disclosed in whole or in part for any purpose other than to evaluate the proposal, provided that if a contract is awarded to RGC as a result of or in connection with the submission of this Statement of Work, Positive Solutions shall have the right to duplicate, use or disclose the information to the extent provided by the contract. This restriction does not limit the right of Positive Solutions to use information contained in the Statement of Work if it is obtained from another source without restriction.

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1. STATEMENT OF WORK

Statement of Work – Introduction

This section describes the Services that RGC and Associates will provide under the terms of the RGC Customer Agreement (*Agreement*) and this Statement of Work (SOW). Specifically, RGC will provide Positive Solutions, Inc. (PSI) with a set of customized e-ratable services, with supporting documentation. The details of the Services to be provided are described in this section. These Services will be provided at all eligible PSI locations in San Antonio, Texas.

Scope of Work to be accomplished by RGC includes the procurement, installation and testing of a network infrastructure that is capable of supporting PSI's educational technology requirements.

This Statement of Work is comprised of the following sections:

1. Assumptions
2. RGC Responsibilities
3. PSI Responsibilities
4. Deliverable Materials - Documentation
5. Project Schedule
6. Completion Criteria
7. Warranty
8. Charges

The following are incorporated in and made part of this Statement of Work:

- ♦ Appendix A, Deliverable Guidelines / Documentation
- ♦ Appendix B, Project Change Control Procedure
- ♦ Appendix C, Equipment
- ♦ Appendix D, Wiring Installation Standards
- ♦ Appendix E, Cabling Installation and Testing Specifications
- ♦ Appendix F, Signature Page

Changes to this Statement of Work will be processed in accordance with the procedure described in Appendix B, "Project Change Control Procedure." The investigation and the implementation of changes may result in modifications to the Schedule, Charges or other terms of this Statement of Work.

This proposal will expire December 31, 2004 unless this date is extended by RGC in writing.

1.1 Assumptions

This Statement of Work and RGC's estimates to perform the Statement of Work are based on the following assumptions. Deviations that arise during the proposed project will be managed through the procedure described in Appendix B, "Project Change Control Procedure."

The networking system environment consists of PSI's eligible sites.

1. No sites affected by RGC's performance under this SOW have been declared as "Historical Buildings."
2. RGC will provide up to 90 cable drops, which includes moves, adds and changes.
3. PSI eligible sites do not exceed one (1) location.
4. PSI school sites will be cabled and have closets prepared prior to the installation of network equipment.
5. PSI personnel who will be assigned to this project will have the technical skills necessary to participate in the project.
6. PSI and user personnel will be available as described in section 3.0, "PSI Responsibilities."
7. PSI will provide a current and accurate listing of each school site, to include network electronics hardware and software installed, and the number of MDF and IDF wiring closets.
8. Work under this Statement of Work will be performed at sites within PSI and will not require travel to school sites outside district boundaries.
9. Only those components specified in this SOW are to be supplied and installed by RGC. Additional components can be specified via the Project Change Control Procedure detailed in Appendix B.
10. Services to configure network electronics in each MDF or IDF will be performed at one time.
11. Work under this contract will be performed during school hours (7:00 a.m. and 4:00 p.m.) unless otherwise mutually agreed by RGC and PSI.
12. Work to be performed at specific sites will be mutually agreed and scheduled at least ten (10) business days prior to the commencement of the work.
13. RGC may use subcontractors in the performance of this SOW.
14. RGC and our subcontractor(s) will have unlimited, unrestricted access to all buildings. Any security requirements inclusive of guards, security codes/access codes, lighting and internal access and/or central monitoring are the responsibility of PSI.
15. RGC will be provided with access badges, keys and combinations or escorts to perform the work described in this SOW. Any delay encountered due to unavailability of buildings may result in additional charges being incurred by PSI. If this situation arises, it will be addressed via the Project Change Control Procedure detailed in Appendix B.
16. Adequate wall space/wiring closet space will be made available to RGC for the purpose of placing MDF/IDF products and equipment installed under this agreement. It is understood by RGC and PSI that any delay encountered due to insufficient wall space/insufficient wiring closet space may result in time delays and additional charges incurred by PSI. If this situation arises, it will be addressed via the Project Change Control Procedure detailed in Appendix B.
17. It is understood by PSI and RGC that this SOW is based upon the Start Date provided below. In the event this date is not achieved, RGC reserves the right to extend the project End Date on a working day for working day basis, and as mutually agreed by RGC and PSI, via the Project Change Control Procedure detailed in Appendix B.

18. It is understood by PSI and RGC that this SOW and the pricing associated with this SOW are based upon the award of the total proposed SOW described in this document. The work described in this SOW will be performed during one continuous phase.
19. RGC will not order product until after the site survey has been made and the configuration verified and agreed to by PSI.
20. PSI will provide access to the PSI network for support.
21. This Statement of Work applies to eligible buildings identified in FCC Form 471.
22. Delivery of product is dependent upon availability from our vendor(s).
23. All non-RGC products must be approved by RGC's Product Safety Review Board prior to RGC placing your order. If any product does not meet our product safety specifications, RGC will work with you to identify an alternate product. Procurement of an alternate product will occur only upon your approval.
24. Excluded from the Services Charge are items involving, but not limited to; repairs to the Location for correcting existing code deficiencies, painting, asbestos removal, plumbing, heating and ventilation, air conditioning work, etc.

Exclusions from this Statement of Work

1. RGC is not responsible under this SOW for the identification or correction of any existing safety and/or code violations, whether federal, state or local, including but not limited to fire and electrical codes. If RGC should discover any safety and/or code violations during the course of this project, RGC will notify PSI of the problem. RGC will not be required to proceed with its work under this SOW until PSI remedies such violation, nor will RGC be responsible for delays to the work caused by such violation.
2. It is specifically understood by PSI and RGC that all matters relating to detection and/or abatement or removal of asbestos, hazardous waste or other pollutants are beyond the scope of this contract and that RGC shall not be liable for any delay or additional cost incurred as a result of such detections and/or abatement. If asbestos, hazardous waste or other pollutants are uncovered during the course of the work on the contract, then PSI shall be responsible for retaining the experts necessary to remove such asbestos, hazardous waste or pollutants from the site. PSI shall also be responsible for any testing and corresponding with appropriate government authorities.
3. On-going network operations and coordination are not included in this Statement of Work. RGC would be pleased to respond to PSI for the addition of these services.
4. Relocation and testing of existing computers, telecommunications, or CCTV equipment(s) or systems are not required.
5. Removal of existing telecommunications or CCTV cabling is not required.
6. No data Media Converters are being supplied under this Statement of Work.
7. Installation of any hardware, software, and network electronics not specified in this SOW (e.g., workstations, servers, printers, routers, DSUs/CSUs, repeaters, modulators) is the responsibility of PSI. If RGC performs work on these excluded items, it must be done pursuant to a separate purchase order, and a separate SOW or PCR to this SOW.
8. It is understood by PSI and RGC that all matters relating to physical construction of new wiring closets/equipment locations and retrofits for existing wiring

closets/equipment locations, (general construction build out, HVAC, electrical, lighting, construction permits) is the responsibility of PSI.

9. Under the terms of this Statement of Work we are not responsible for 1) your products, 2) a third party's products (including products you license from our subcontractors) or 3) RGC's previously installed Products, ("Other Products") to correctly process or properly exchange accurate date data with the Products or deliverables we provide. We will be relieved of our obligations under this Statement of Work due to the inability of such Other Products to correctly process or properly exchange accurate date data with the Products or deliverables we provide to you.

2. RGC RESPONSIBILITIES

2.1 Project Management

Task Description

The objective of this task is to provide technical direction, maintain project control and establish a framework for project communications, reporting, procedural, and contractual activity for the RGC tasks described.

This task consists of the following activities:

- ◆ Establish and coordinate RGC efforts with the PSI Project Manager.
- ◆ Develop and maintain work plans for the performance of RGC responsibilities.
- ◆ Administer the Change Control Procedures.
- ◆ Schedule and attend regularly scheduled status meetings.
- ◆ Maintain communications and review progress with the PSI Project Manager and team members during status meetings.
- ◆ Prepare and submit written Monthly Status Reports of RGC activities to the PSI Project Manager.

Completion Criteria

This task will be considered complete when the project is complete and the final Monthly Status Report has been delivered to the PSI Project Manager.

Deliverables/Documentation

Monthly Status Reports.

2.2 Perform Site Survey

Description

The objective of this task is to visit PSI locations and perform a site survey. The sub-tasks are:

1. Verify and correct site general information.
2. Identify and document site's special considerations:
 - Site's labor requirements and works restrictions (e.g. union vs. Non-union environments, works hours, access restrictions, special condition or limitations) that may affect the site's rollout.
 - Safety regulations - as may apply from municipalities
 - Site security requirements
 - Any unusual site conditions (e.g., site to be closed in one week)
3. Identify Equipment Room locations and requirements
 - Isolated electrical power circuit availability
 - Heating and air-conditioning
 - True earth ground availability

- - Access security
- Fiber/Telephone circuit connection – DS3, T1, ISDN

Completion

This task will be complete for a site when the site visit is complete and a site survey document for the site is provided to the PSI Project Manager.

Deliverable/Documentation

Site Survey Document

2.3 Installation/Configuration of Network Electronics and Cabling

Description: The objective of this task is to configure and install Three (3), Cisco 2950 Switches, One (1) Cisco 2620 Router, Two Wireless Access Points, and the specified cabling, interconnects, and Configuration of the specified equipment. The Subtasks are:

1. Development of network design – Provide design and component list as part of response to IFB (470)
 - A. Meet with project team to discuss design parameters
 - B. Meet with selected Electronics Manufacturer to help determine new products.
 - C. Determine base component structure
 - D. Determine quantity of UPS' needed to protect all closets
2. Research and identify hardware components that fit hardware design
 - A. Research validity of base component structure
 - B. Research availability of necessary function, capability, and compatibility of recommended base components
 - C. Develop integrated hardware and software components
3. Develop detailed component list to match network design
 - A. Develop estimation criteria to base component numbers on
 - B. Match hardware and software component to estimated numbers to develop final equipment list
4. Survey all schools
 - A. Survey all currently installed hardware to determine current network status
 - B. Survey power in all MC's at each site and in each closet
 - C. Survey physical space in all MC's at each site and in each closet
5. Power designation walkthrough
 - A. Coordinate power designation walkthrough schedule with PSI facilities
 - B. Visit all eligible sites to determine placement of new 20A dedicated power circuits for MC network electronics (as needed)
6. Compilation of all data from Survey

- A. Develop a spreadsheet that shows totals of existing equipment available for trade-in
 - B. Submit equipment list to old Electronics Manufacturer and acquire trade-in amount document
 - C. Compile and submit document for all other survey results
 - D. Assisting in development of SLD submission packet for equipment purchase
 - E. Closet by closet compilation of final network drops to be used in developing school specific final component list
7. Development of closet-by-closet network electronics component list for all eligible sites
- A. Matching hardware and software components defined in the design process to the network drops counts to determine specific product configuration for every closet in every school
 - B. Develop network architecture (i.e. Routing protocols, VLAN development, QOS, IP protocol scheme etc.)
 - C. Develop detailed component configuration parameters
8. Receive, Inventory and Installation of electronic components
- A. Receive, inventory, break out components to match each individual campus and the district data center
 - B. Coordinate delivery and downtime for installation of electronics at each campus
 - C. Remove existing cabling and network electronics in each closet, at each campus as installation is being performed
 - D. Install new electronic components
 - E. Configure each individual electronic component in accordance with the developed configuration parameters
 - F. Patch new electronic components into cable plant – includes installation of wire management
 - G. Interconnect closet to closet communications
 - H. Connect local area network to wide area network
 - I. Test perform aspects of both local and wide area network
9. Asset Tag Management and Documentation
- A. Document all configuration parameters for each installed component
 - B. Document serial numbers, location and asset tags for each installed component
 - C. Document serial numbers and asset tags from each replaced component
 - D. Remove all old electronic components from campus site to staging area
 - E. Separate trade in components from non trade in components
 - F. Facilitate trade in of old components to appropriate manufacturer
 - G. Compile and submit all serial number to appropriate manufacturer to activate warranty coverage
 - H. Compile all documentation and turn over to District the end results (Site Installation Document)

Completion

This task will be complete for each PSI location when RGC delivers the Site Network Installation Document for that location to the PSI Project Manager.

Deliverables/Documentation**Site Network Installation Documentation****2.4 Install and Test Cabling**

Task Description: RGC will install and test cabling in support of the adds, moves, and changes to the cabling plant at PSI per the specifications contained in Appendix D and Appendix E. The sub-tasks are:

- ◆ Provide moves, adds and changes to the existing cable plant. It is understood that moves of cable drops will be to a point closer to the communication closet. The cable drops moved will be tested to verify that they meet specification requirements. Estimated additional drops for moves, adds and changes are 90.
- ◆ Provide cabling connections between the main building at a campus and new buildings, which are not portables or cottages for the purpose of delivering signal to their ICs.
- ◆ Provide cabling to attach designated classrooms moved between campuses as required based on the terms outlined in the contract.
- ◆ Build portable ICs for classrooms moved between campuses as required based on the terms outlined in the contract.
- ◆ Install specified data drops including the installation of a cabinet rack in District computer labs, MCs, and ICs and HC's.
- ◆ Build MCs and ICs facilities as defined in Appendix E.
- ◆ Provide testing for the cabling installed under this SOW as defined in appendix E.
- ◆ Develop "As Built" drawings to document the cabling installation provided - documentation.
- ◆ Compile a Project Cabling Test Book - documentation.

Completion Criteria: This task will be considered complete when RGC delivers one (1) set of "As Built" drawings and one (1) copy of the Project Cabling Test Book to PSI.

Deliverables: Documentation:

- ◆ "As Built" drawings
- ◆ Project Cabling Test Book

3. PSI RESPONSIBILITIES

The responsibilities listed in this section are in addition to those responsibilities specified in the RGC Customer Agreement and are to be provided at no charge to RGC. RGC's performance is predicated upon the following responsibilities being fulfilled by PSI.

3.1 General Responsibilities

- ◆ Assign a Project Manager to represent PSI regarding this contract.
- ◆ Provide full access to all PSI school locations as required under this SOW.
- ◆ Communicate with appropriate PSI personnel of the work to take place and obtain their approval if necessary.
- ◆ Provide floor diagrams of affected campus locations in 8 1/2 x 11 hardcopy format.
- ◆ Provide all necessary closet and/or equipment areas for the location of network electronics, racks and cabinets as described in this SOW.
- ◆ Provide all necessary power and environmental support to accommodate all RGC and PSI provided equipment.
- ◆ PSI is responsible for all permits and associated fees.
- ◆ Provide all necessary configuration information to enable RGC's network equipment procurement and installation activities under this SOW.
- ◆ Inform RGC of any change in network requirements in accordance with the RGC Project Change Control Procedure in Appendix B.

3.2 Project Management

Prior to the start of this Statement of Work under the Agreement, PSI will designate a person, called the PSI Project Manager, to whom RGC communications will be addressed and who has the authority to act for PSI in all aspects of the contract.

The PSI Project Manager's responsibilities include:

1. Provide liaison between all project participants.
2. Manage the Project Change Control Procedure for PSI.
3. Attend project status meetings.
4. Obtain and provide information, data, decisions and approvals, within two (2) working days of RGC's request unless PSI and RGC agree to an extended response time.
5. Help resolve project issues and escalate issues within the PSI organization, as necessary.
6. Permit posting of any notifications required by applicable law for Services provided at your locations.
7. Provide required conduit and trenching within the project schedule timeframe should PSI require RGC to utilize buried or underground conduit that does not currently exist.
8. Provide personnel (if PSI desires) to witness and authorize standard testing of each school building as the installation/testing activities are completed.

9. Locate and mark all water, gas, electrical or any other underground pipes or cabling in the path required for the trenching for the fiber connection, before trenching can be started.

3.3 Space, Facilities and Utilities

Provide centralized and secure staging work area and facilities for performing the necessary staging and configuration of the RGC provided equipment.

Provide installation facilities for RGC provided equipment. PSI is responsible for space allocation, HVAC and electrical considerations. PSI is responsible for providing the power, light and water necessary for the performance of this project.

RGC and our subcontractor will have 24x7 access to all buildings to perform the RGC Responsibilities specified in this Statement of Work. Any security requirements inclusive of guard, security codes/access codes, lighting and internal access and/or central monitoring are the responsibility of PSI.

Adequate space will be made available for the installation of all products related to this project.

3.4 Security and Laws

PSI will identify and make the interpretation of any applicable federal, state, and local laws, regulations and statutes to see that the services provided by RGC comply.

4. DELIVERABLES / DOCUMENTATION

The following items will be delivered to PSI under this Statement of Work. See Appendix A, "Deliverable Guidelines" for a description of each deliverable.

- ◆ Status Report
- ◆ Site Survey Documentation
- ◆ Site Network Installation Documentation
- ◆ "As-built" drawings
- ◆ Project Cabling Test Results

5. PROJECT SCHEDULE

- ◆ Start Date – July 1, 2003
- ◆ End Date – June 30, 2004

5.1 Project Delays

RGC will not be responsible for delays or additional requirements imposed by any government agencies or unforeseen conditions such as delays in the progress of the project by your acts or neglect or the acts or neglect of your employees or separate contractors employed by you, by changes ordered in the project not caused by the fault of RGC, by labor disputes, fire, unusual delays in transportation, adverse weather conditions not reasonably anticipatable, unavoidable casualties or other causes beyond RGC's control or by another cause which you and RGC agree is justifiable.

6. COMPLETION CRITERIA

RGC shall have fulfilled its obligations under this Statement of Work when any one of the following occurs:

- ◆ RGC accomplishes the tasks described in section 2.0, "RGC Responsibilities,"
- ◆ Either of us terminates the Project in accordance with the provisions of the RGC Customer Agreement and this SOW.
- ◆ The End Date for the contract is reached.

7. PROJECT WARRANTY

RGC does not guarantee or warrant, express or implied, the materials used in workmanship of supplies, materials, equipment or machinery manufactured by third parties and furnished and installed under this Agreement. RGC shall endeavor to obtain from all vendors and suppliers and assign to Owner the customary warranties and guaranties of such vendors and suppliers with respect thereto. RGC shall render reasonable assistance to Owner when requested in order to enable the Owner to enforce such warranties and guaranties by third party manufacturers and suppliers.

There are no other warranties, express or implied, including but not limited to the implied warranties of merchantability and fitness for a particular purpose.

8. CHARGES

RGC will submit invoices per the payment schedule as stated below.

The Services Charge stated here represents the maximum allowable charges for all services that may be provided under this Statement of Work. RGC understands that the decision to implement this project is contingent upon award to Positive Solutions Inc. (PSI) of funding under the E-rate program. RGC will not begin work on this project without written notification from PSI that funding has been approved and that work should begin. If such notification has not been received by December 31, 2003, at RGC's option, RGC may terminate this Statement of Work or implement an extension of this Statement of Work, as well as changes in pricing or other terms and conditions as may be required, via the Project Change Control Procedure outlined in Appendix B.

Or this SOW may be extended upon mutual agreement between PSI and RGC as defined in the section titled Project Change Control Procedure. Should PSI not receive the requested funding for E-rate 6, PSI may terminate the SOW without further obligation. Should PSI receive only partial funding, RGC will work with PSI to incorporate those portions of this SOW that can be accomplished based upon available funding. It is specifically understood by RGC and PSI that no E-rate 6 activity will occur prior to RGC's receipt from PSI of written authorization to precede. It is understood by PSI and RGC that, should full or partial funding be received by PSI, and should PSI decide to initiate work on the project, that PSI will use this SOW and RGC as designated Solution Provider, to accomplish the agreed to scope of effort under the E-Rate program.

It is understood by PSI and RGC that this SOW and its associated pricing is based upon RGC receiving written approval from PSI to proceed with E-rate 6 no later than December 31, 2003. In the event this approval is not received by this date, RGC reserves the right to restructure the SOW, with PSI's concurrence, to incorporate only those tasks that can be successfully completed by RGC prior to June 30, 2004. This proposal will remain valid through December 31, 2003

Equipment Prices, License Fees and Service Charges:

Total Materials Price:	\$ 74,809.04
<u>Charges for Network Installation/Configuration</u>	<u>\$141,837.50</u>

TOTAL	\$ 216,646.54
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E-Rate Invoicing: Prior to commencing work, RGC requires 1) a fully signed contract signature sheet; 2) a P.O. in the amount that the E-Rate program is not funding (e.g. non-discounted portion of the eligible costs plus the non-eligible costs); 3) a copy of the USAC's Funding Commitment Decision Letter, and; 4) submittal of USAC Form 486.

As a service to PSI, RGC will perform dual billing per E-Rate terms and conditions. First, RGC will invoice PSI, as product is delivered to the PSI provided RGC staging site and as work is completed, for the 'non-discounted' portion of the ELIGIBLE items and any non-eligible items. Secondly, under separate invoice, RGC will invoice the E-Rate FCC Snowe-Rockefeller administration for the remaining discounted portion of the ELIGIBLE items. Payment is due as specified in the invoice.

Should PSI not receive the requested funding for E-rate or should PSI receive only partial funding, RGC will work with PSI to incorporate those portions of E-rate funding

that can be accomplished based upon available funding, after the Board has accepted the E-Rate funding.

Please note that although RGC will bill PSI for the 'non-discounted' portion and other charges not eligible under the E-Rate program, PSI assumes responsibility for the entire contract services charge, should PSI not inform RGC of any changes in the funding status or work effort. Notwithstanding any other provision, PSI has the right to terminate this agreement for business reasons if written termination notice is given to RGC prior to any work being performed or service provided.

Excluded from the Services Charge are items involving, but not limited to; repairs to the Location for correcting existing code deficiencies, painting, asbestos removal, plumbing, heating and ventilation, air conditioning work, etc

RGC Service Provider Identification Number (SPIN): 143025918

RGC reserves a purchase money security interest in the Machines provided until RGC receives payment of the amounts due. You authorize RGC to prepare and file a financing statement to perfect its purchase money security interest in all Machines you order and RGC delivers under this Statement of Work.

RGC terms of payment are Net 30 days.

Appendix A: DELIVERABLE / DOCUMENTATION GUIDELINES

1. Monthly Status Reports

Purpose: RGC will provide Status Reports Monthly during the project to describe the activities, which took place during that period. Significant accomplishments, milestones and problems will be described.

Delivery: One (1) hard copy will be delivered to the PSI Project Manager, within five (5) working days following the reporting period.

Content: The report will consist of the following, as appropriate:

- Activities performed during the reporting period
- Activities planned for the next reporting period
- Project change control summary
- Problems, concerns, and recommendations
- Billing summary

2. Site Survey Document—Documentation

Purpose

RGC will provide a Site Survey Document for PSI location detailing locations, requirements, and special considerations.

Delivery

One (1) hard copy of the document and on (1) electronic copy will be delivered to the PSI Project Manager.

Content

The report will consist of the following, as appropriate:

- Site general information
- Site special considerations
- Equipment room locations and requirements

3. Site Network Installation Document

Purpose

RGC will provide a Network Installation Document summarizing the installation of equipment at a PSI location as specified in Appendix C.

Delivery

One (1) hard copy of the document and one (1) electronic copy will be delivered to the PSI Project Manager for each location where Network equipment is installed under this SOW.

Content

The report will consist of the following, as appropriate:

- Equipment List with Serial Numbers
- Configuration Information
- Physical location information

4. "As-built" Drawings

Purpose:

RGC will provide 8 1/2" x 11" "As-built" drawings, marked-up plan views showing drop and MC/IC equipment locations.

Delivery:

One (1) hard copy will be delivered to the PSI Project Manager within thirty, (30) working days following the completion of the project.

Content, as appropriate:

The report will show drop and MC/IC equipment locations.

5. Project Cabling Test Results

Purpose:

RGC will deliver one (1) copy of the Project Cabling Test Results. This will be a copy of the Cable Test Forms for Category 5e data cabling and fiber optic cabling.

Delivery:

One (1) hard copy will be delivered to the PSI Project Manager within thirty, (30) days of project completion.

Content:

The report will show cable tests results for all cable installed on this project.

Appendix B: PROJECT CHANGE CONTROL PROCEDURE

When both of us agree to a change in this Statement of Work, a written description of the agreed change (called a "Change Authorization") will be prepared, which both parties must sign. The Change Authorization will describe the change, the rationale for the change, and specify any change in the charges, schedule or other terms. Depending on the extent and complexity of the requested changes, RGC may charge for the effort required to analyze it. When charges are necessary in order to analyze a change, RGC will provide a written estimate and begin the analysis on written authorization. The terms of a mutually agreed upon Change Authorization will prevail over those of this Statement of Work or any previous Change Authorization.

Appendix C: EQUIPMENT LIST

Equipment:

RGC will provide the following internal connections equipment and associated documentation in accordance with the terms and conditions of this SOW:

QTY	DESCRIPTION/BRAND	Make/Model	Unit Quote	Extended Quote
	Cabling Equipment			
1	Rack - Hub Building	Elite 525061-1F	\$ 1,357.00	\$ 1,357.00
1	Router 8 port	Cisco 2620XM	\$ 9,599.30	\$ 9,599.30
3	Switches	Cisco 2950GE-SX	\$ 4,707.02	\$ 14,121.06
3	48 port Patch panels		\$ 236.00	\$ 708.00
90	Faceplates		\$ 1.30	\$ 116.82
90	Jacks		\$ 3.54	\$ 318.60
90	Box eliminators		\$ 1.18	\$ 106.20
450	RaceWay		\$ 2.36	\$ 1,062.00
154	Patch cables 3 ft		\$ 1.77	\$ 272.58
80	Patch cables 15 ft		\$ 3.54	\$ 283.20
11	Wire manager		\$ 35.40	\$ 389.40
2	Shelf		\$ 129.80	\$ 259.60
1	DSU/CSU	DDS/T1 MT102A-R2	\$ 2,205.42	\$ 2,205.42
1	UPS	IBM 37L-6861	\$ 4,484.00	\$ 4,484.00
1	Power Strip		\$ 70.80	\$ 70.80
450	Interduct		\$ 1.77	\$ 796.50
36	Couplings		\$ 1.65	\$ 59.47
19	Cat5e		\$ 199.42	\$ 3,788.98
1	Ties/Raps/Plates		\$ 2,950.00	\$ 2,950.00
		Series 8000		
3	Wireless Access & Cable	LW8001A/LW0050A-R2	\$ 10,620.00	\$ 31,860.00
	Network Equipment Install Services			
440	Installation		\$ 166.25	\$ 73,150.00
210	Configuration		\$ 140.00	\$ 29,400.00
150	Maintenance		\$ 140.00	\$ 21,000.00
110	Project Management		\$ 166.25	\$ 18,287.50

Non-Eligible Components

QTY	DESCRIPTION/BRAND	Unit Quote	Extended Quote
1	Firewall	\$ 15,990.18	\$ 15,990.18
1	Anti-Virus Appliance	\$ 4,714.10	\$ 4,714.10

Appendix D: WIRING INSTALLATION STANDARDS

Telecommunications wiring standards and practices

Foreword

The purpose of this section is to set forth standards for the installation of low voltage wiring typically used for telephone or data communications in any and all facilities of the PSI. This document is intended to establish acceptable installation practices in all PSI buildings and should be used as a contract addendum for all projects done by contract involving such wiring. As such, this document binds any contractor awarded work involving low voltage wiring to conform to the specifications herein.

Specifications

Placement/appearance

- ◆ All wiring should be placed in ceilings and walls, with only a jack (or other connector) on a faceplate establishing a connection point in all classrooms, offices, and other public areas. Data communications jacks are normally RJ45 and fiber optic cable terminations are normally ST connectors (either crimped or UV curved). These jacks and terminators will reside preferably on the same faceplate in a classroom or office. External control devices, which would normally be placed on interior surfaces in a commercial building, must conform to UL standards and be listed by UL.
- ◆ Inside wiring closets, data connections can be made to patch panels, or (if the specifications so state) to surface mount faceplates with exposed wiring, with said wiring being bundled, and appropriately labeled. Patch cables connecting equipment must be contained in cable management trays, or wire wrapped to ensure the serviceability of the cable plant.
- ◆ Low voltage wiring terminating at other equipment (, multimedia distribution equipment, etc.) must conform to the connection standards of the equipment manufacturer. All such wiring must be appropriately labeled and if the wire is run into a classroom, library, multimedia room, or lab, it must be neatly installed with cables either bundled or installed into cable management devices.
- ◆ The use of Raceway TM, Wiremold TM, or other surface mount cable channel in any classroom, hallway, or other public area is expressly prohibited without prior authorization from the PSI.
- ◆ All wiring in the ceiling is to be bundled appropriately and labeled to ensure maintainability and serviceability. Said bundles are to be securely attached to the roof support structure and should not be attached to any other wire, pipe, HVAC fixture, ceiling supports, etc. Cable paths must avoid interfering with the serviceability of all existing facilities above the ceiling.

Standards

The PSI follows the EIA/TIA 568B standards for data communications cable, and all new data communications cable installed must be category 5e compliant, and be certified as such by testing with electronic scanners. All data cable compliance certifications must be delivered to the PSI prior to completion of the installation. All fiber optic cable installed must also be tested for compliance with standards and certification of such compliance must be reported to the PSI prior to the completion of the project.

Documentation

RGC Statement of Work for
Network Electronics

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Exhibit A-1

The district has a structured wiring plan in place; all additional wiring installed must be labeled appropriately. Labeling designations can be obtained from the Network Service Group of the Division of Technology. It is strongly recommended that any wiring installations be coordinated with the Network Services Group and the Facilities Departments.

Working in the campuses

Unless prior arrangements have been made with campus and District personnel, any wiring work must be performed during non-school hours. Most campus' classes are scheduled between 7:00 a.m. and 4:00 p.m. Therefore, as a general rule, all wiring work must be done at night, on weekends, or during school holidays.

Unless other arrangements are made in advance, all classrooms, hallways, and other public areas must be restored to their normal appearance at the end of each work shift. Ceiling fans must be replaced, wall plates must be installed, and the area must be left clean in preparation for the next school day. No wiring ends, supply leftovers, or any other residue is to be left at the campus. Communication closets can be left in the work in progress stages so long as it does not interfere with the serviceability of the network and communications equipment in these rooms.

At the completion of the wiring project, all ceiling tiles must be securely in place, all access points must be covered and be cosmetically and structurally complementary of the existing building. All supplies, equipment, and tools are to be removed from the building.

Firewalls

It is the responsibility of the wiring installer to ensure that any firewall penetrations are properly sealed and conform to building codes regulating firewalls and the sealing of penetrations.

Final Walkthrough

Every wiring job will be subject to a final walk through to establish conformance with these standards. The wiring contractor is obligated to provide personnel to accompany District personnel on such inspection, if requested. Any discrepancies with these standards must be corrected before the project can be considered complete. Acceptance of the contracted work by the district will be accomplished at the final walkthrough, and is a prerequisite to payment of any invoice for services.

Appendix E: CABLING INSTALLATION AND TESTING

Installation of a New MC

- Furnish and install Main Cross Connect (M.C.) that all data connections may be cross-connected from. This M.C. will be furnished and installed as per the Specifications Document and will contain the following, as appropriate and required:
- (1) 4' x 8' x .75" Virgin Plywood backboard that has been fire retardant treated at least 3 times with an approved treatment and firmly attached to the wall
- (1) 7' x 19" communications rack firmly attached to floor or 6 ft. cabinet.
- Ladder tray/stabilizer firmly attached to wall and proceeding up wall into ceiling for a complete cabling pathway for distribution
- Ceiling interface with ladder tray to give a good aesthetic appearance and protection of cabling
- Grounding and bonding to existing TMGB, or the installation of a new TIA/EIA 607 Grounding and Bonding System.
- 48 Port Modular Patch Panels Labeled for Data
- 24 Port Modular Patch Panel Labeled for Data
- (2 -6) Wire Managers as needed
- (Qty) 1 and/or 3meter enhanced category 5e color coded data patch cables

Installation of a New IC

- Furnish and install an Intermediate Cross Connect listed as (I.C.#_) located in the Telecommunications Closet (Room _) located in the computer storage area that all data connections may be cross-connected from. This I.C. will be furnished and installed as per the Specification Document and will contain the following, as appropriate and required:
- (1) 4' x 4' x .75" Virgin Plywood backboard that has been fire retardant treated at least 3 times with an approved treatment and firmly attached to the wall
- (1) 3' x 19" x 18" Wall mounted black swing away rack (double hinged) or 2' or 4' cabinet.
- (1) Ladder tray proceeding up wall into ceiling for a complete cabling pathway for distribution
- (1) Ceiling interface with ladder tray to give a good aesthetic appearance and protection of cabling
- (1) Grounding and bonding to existing TMGB, or the installation of a new TIA/EIA 607 Grounding and Bonding System.
- (3) 48 Port Modular Patch Panels Labeled for Data
- 1 (24) Port Modular Patch Panel Labeled for Data
- (2 - 6) Wire Managers as needed.
- (Qty) 1 and/or 3meter enhanced category 5e color coded data patch cables

Additional Work to MC (Re-Work, Clean-Up)

- Each MC (Main Cross Connect) required for additional work will have the following possible corrections:
- Re-locate existing rack and all attached media cables connected and terminated onto the rack; Re-test some or all existing circuits for test certification; Re-label some or all existing cabling circuits. Confirm or provide a qualified TGB for proper earthing and bonding of the MC.

Additional Work to IC (Re-Work, Clean-Up)

- Each IC (Intermediate Cross Connect) required for additional work will have the following possible corrections:
- Re-locate existing rack and all attached media cables connected and terminated onto the rack; Re-test some or all existing circuits for test certification; Re-label some or all existing cabling circuits. Confirm or provide a qualified TGB for proper earthing and bonding of the IC.

Connecting Campus MC to Campus IC (Inside Plant 12-strand fiber optic cable only)

- All MC to IC design will be of the indoor type with a maximum length of 200' with not more than 3 inside cores through what may be firewalls to deliver pathway.
- RGC will provide wire management to ensure a comprehensive, neat completion of work.
- AS BUILT schematics on cabling performed will be supplied.

Connecting Campus MC to Campus IC (Inside Plant) (Turn-Key)

- ♦ All MC to IC design will be of the indoor type with a maximum length of 200' with not more than 3 inside cores through what may be firewalls to deliver pathway.
- ♦ Furnish and install one (1) 4' x 19" Swing Away Rack onto a ¾" plywood backboard that has been fire retardant treated and firmly attached to the wall area.
- ♦ RGC will provide wire management to ensure a comprehensive, neat completion of work.
- ♦ AS BUILT schematics on cabling performed will be supplied.

Single Cable Drops

- ♦ Each single drop location will be serviced by the following cables: one (1) each category 5e, 4-pair cable. The number of locations will be determined by RGC, and PSI prior to installation. Each Single Drop is priced using existing pathway only – existing pathway definition means RGC will not have to core through walls, add conduit, or add Raceway.
- ♦ The following is the dual drop termination scheme (the equipment to be connected to is assumed to already be in place at the telecommunications closet end) for each cable:
- ♦ Work Area Outlet:

Cable

Termination

Category 5e Data

RJ45 Category 5e 568B Insert

◆ Telecom Room:

Cable

Termination

Category 5e Data

Rack mounted 48-port Cat 5e RJ45 568B
high density patch panel

- ◆ RGC We will provide wire management to ensure a comprehensive, neat completion of work.
- ◆ AS BUILT schematics on work to be performed will be supplied.

Dual Cable Drops

- ◆ Each dual drop location will be serviced by the following cables: two (2) each category 5e, 4-pair cables. The number of locations will be determined by RGC and PSI prior to installation. Each Dual Drop is priced using existing pathway only – existing pathway definition means RGC will not have to core through walls, add conduit, or add Raceway.
- ◆ The following is the dual drop termination scheme (the equipment to be connected to is assumed to already be in place at the telecommunications closet end) for each cable:
- ◆ Work Area Outlet:

Cable

Termination

Category 5e Data

RJ45 Category 5e 568B Insert

◆ Telecom Room:

Cable

Termination

Category 5e Data

Rack mounted 48-port Cat 5e RJ45 568B
high density patch panel

- ◆ RGC will provide wire management to ensure a comprehensive, neat completion of work.
- ◆ AS BUILT schematics on work to be performed will be supplied.

Dual Data Drops

- ◆ Each dual drop location will be serviced by the following cables: two (2) each category 5e, 4-pair cables. The number of locations will be determined by RGC and

PSI prior to installation. Each Dual Drop is priced using existing pathway only – existing pathway definition means RGC will not have to core through walls, add conduit, or add Raceway.

- ◆ The following is the dual drop termination scheme (the equipment to be connected to is assumed to already be in place at the telecommunications closet end) for each cable:

- ◆ Work Area Outlet:

<u>Cable</u>	<u>Termination</u>
Category 5e Data	RJ45 Category 5e 568B Insert
Category 5e Data	RJ45 Category 5e 568B Insert

- ◆ Telecom Room:

<u>Cable</u>	<u>Termination</u>
(2) Category 5e Data	Rack mounted 48-port Cat 5e RJ45 568B high density patch panel

- ◆ RGC will provide wire management to ensure a comprehensive, neat completion of work.
- ◆ AS BUILT schematics on work to be performed will be supplied.

Wiring a Lab within a Room – “In-Wall” (IW) Design

- ◆ Lab Design cable drops will not exceed 100' in length and shall not include any core or firewall penetrations for this S.O.W.
- ◆ Furnish and install up to twenty (20) Category 5e, 4-pair twisted, Plenum solid core copper cable drops into a single classroom (Lab). These cable drops will be through sheetrock pathways with dropped acoustical ceilings and will be suspended onto Caddy Cat.32 “J” Hooks at no more than 5' intervals on red metal or on ceiling support positions but not on ceiling grids or ceiling hanging wires.
- ◆ Furnish and install up to five (5) Quad-Plex Faceplates of single gang construction for W.A.O. (Work Area Outlet) design to deliver service to the students. These faceplates will be flush mounted into Sheetrock walls utilized with Caddy BB-10's.
- ◆ Furnish and install one (1) 48-port modular patch panel for final central Horizontal connection point.
- ◆ Furnish and install one (1) Wire Manager for neat and proper pathway placement.
- ◆ Furnish and install up to twenty (20) Jacks into faceplates.
- ◆ Furnish and install up to seventy two (72) Category 5e Patch Cables in either 1 or 3-meter design for use at the W.A.O. or at the Patch Panel.
- ◆ RGC will provide wire management to ensure a comprehensive, neat completion of work.

- ◆ AS BUILT schematics on cabling performed will be supplied.

Wiring a Lab within a Room – “Outer-Wall” (OW) Design

- Lab Design cable drops will not exceed 100' in length and shall not include any core or firewall penetrations for this S.O.W.
- Furnish and install up to twenty (20) Category 5e, 4-pair twisted, Plenum solid core copper cable drops into a single classroom Lab. These cable drops will run down the outer wall with Wiremold proceeding from dropped acoustical ceilings and will be suspended onto Caddy Cat.32 “J” Hooks at no more than 5' intervals on red metal or on ceiling support positions but not on ceiling grids or ceiling hanging wires.
- Furnish and install up to five (5) Quad-Plex Faceplates of single gang construction for W.A.O. (Work Area Outlet) design to deliver service to the students. These faceplates will be surface mounted onto the outside of the wall utilizing Wiremold and on surface mounted boxes.
- Furnish and install one (1) 48-port modular patch panel for final central Horizontal connection point.
- Furnish and install one (1) Wire Manager for neat and proper pathway placement.
- Furnish and install up to twenty (20) Jacks into faceplates.
- Furnish and install up to seventy-two (72) Category 5e Patch Cables in either 1 or 3-meter design for use at the W.A.O. or at the Patch Panel.
- RGC will provide wire management to ensure a comprehensive, neat completion of work.
- AS BUILT schematics on cabling performed will be supplied.

Existing Cable Removal

- RGC will include the removal of any abandoned cable left within the schools as a result of the replacement of an existing media with the installation of a new media cable. (Data, Voice or Video)
- Any abandoned cable not replaced by RGC with the installation of a new media cable will be covered with a blank faceplate and the existing cable left within the walls and or ceilings.

1. Functional Testing

Functional Testing will be performed in conformance with the following:

Fiber Meter – Transmission and path loss testing (Fiber meter test method). RGC will perform fiber meter testing on all fiber optic cable installed under this SOW. Soft Copy test results will be provided.

Category 5e Cable – Category 5e compliance testing per UL standards. RGC will perform Category 5e testing on the Category 5e cable installed under this SOW in accordance with EIA/TIA standards. Soft Copy test results will be provided.

Appendix F: SIGNATURE PAGE

RGC (we) will provide, and PSI (you) agrees to accept, RGC Services (Services) for "RGC Statement of Work for Network Electronics and Cabling" under the terms and conditions of the RGC Customer Agreement and this Statement of Work. For Scope of Services, Completion Criteria, Charges and other applicable terms refer to the RGC Statement of Work dated 31 January 2003.

RGC is aware of the District's reliance on an outside source of funding (Universal Service Fund) to execute on the implementation tasks described in this SOW. Should Positive Solutions, Inc. (PSI) not receive the requested funding for E-rate 6, PSI may terminate the SOW without further obligation. Should PSI receive only partial funding, RGC will work with PSI to incorporate those portions of this SOW that can be accomplished based upon available funding. It is specifically understood by RGC and PSI that no E-rate 6 activity will occur prior to RGC's receipt from PSI of written authorization to precede. It is understood by PSI and RGC that, should full or partial funding be received by PSI, and should PSI decide to initiate work on the project, that PSI will use this SOW and RGC as designated Solution Provider, to accomplish the agreed to scope of effort under the E-Rate program, after the Board accepts the E-Rate funding.

It is understood by PSI and RGC that this SOW and its associated pricing is based upon RGC receiving written approval from PSI to proceed with E-rate 6 no later than December 31, 2003. In the event this approval is not received by this date, RGC reserves the right to restructure the SOW, with PSI's concurrence, to incorporate only those tasks that can be successfully completed by RGC prior to June 30, 2004. This proposal will remain valid through December 31, 2003.

Total Charges: \$216,646.54, which includes travel and living expenses. Both of us agree that the complete agreement between us regarding these Services will consist of 1) this Statement of Work and 2) the RGC Customer Agreement (or any equivalent agreement signed by both of us).

Agreed to:

San Antonio Positive Solutions, Inc.

By


(Authorized Signature)

Name

Date 2/5/03

Customer Number

Customer Address

1325 North Flores

San Antonio, TX 78212

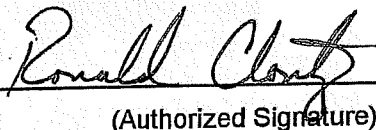
Start Date: July 1, 2003

RGC Statement of Work for
Network Electronics

Agreed to

RGC and Associates, Inc.

By


(Authorized Signature)

Name

Date 2/5/03

RGC Customer Agreement No.

RGC Office Address:

115 E. Travis St. Suite 1500

San Antonio, TX 78205

End Date: June 30, 2004

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Page 28

Exhibit A-1

STATE OF TEXAS

COUNTY OF BEXAR

AFFIDAVIT BY PAMELA M. SOLITAIRE

Before me, the undersigned authority, on this day personally appeared Pamela M. Solitaire, who being by me first duly sworn, on oath stated as follows:

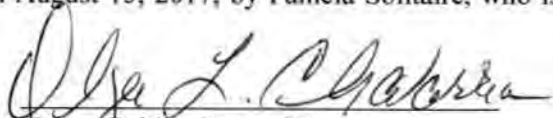
My name is Pamela M. Solitaire. I am over the age of 18, am of sound mind and capable of making this affidavit. I understand that if I lie in this affidavit, I may be criminally responsible.

I was the Director for San Antonio Positive Solutions, Inc., doing business as Positive Solutions Charter School ("SAPS"), 1325 North Flores, San Antonio, Texas 78212, from November 01, 1993 through April 2, 2013. I was the person at SAPS who, in 2003, was responsible for drafting, completing and submitting a Form 470, Description of Services Requested and Certification Form, for a Network Electronics and Cabling Project ("the project") for SAPS, FRN 1002895.

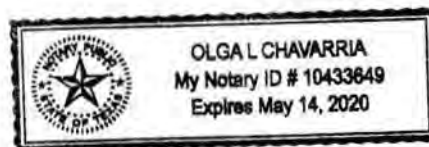
As I recall, RGC and Associates, Inc. was the sole vendor that submitted a proposal to SAPS.


Pamela M. Solitaire

Sworn to and subscribed before me on August 15, 2017, by Pamela Solitaire, who is personally known to me.


Notary Public, State of Texas

My commission expires May 14, 2020





Schulman,
Lopez, Hoffer
& Adelstein, LLP

517 SOLEDAD STREET
SAN ANTONIO, TEXAS 78205-1508
TELEPHONE: (210) 538-5385 FACSIMILE: (210) 538-5384
WWW.SLH-LAW.COM & WWW.K12LAW.COM

ROBERT A. SCHULMAN
RSCHULMAN@SLH-LAW.COM

ATTORNEYS AND COUNSELORS FOR TEXAS PUBLIC SCHOOLS AND LOCAL GOVERNMENT

August 15, 2017

By Certified Mail, Return Receipt
Requested No. 7016 1970 0000 9112 3210

Letter of Appeal
Schools and Libraries Program – Correspondence Unit
30 Lanidex Plaza West
P. O. Box 685
Parsippany, NJ 07054-0685

RE: Appeal of Notification of Commitment Adjustment Letter

Billed Entity Name	San Antonio Positive Solutions, Inc. DBA Positive Solutions Charter School
Billed Entity Number	226729
Contact Person	Robert A. Schulman, Attorney-at-Law
Contract Information: Mailing Address Phone Number Fax Number Email	517 Soledad Street, San Antonio, TX 78205 (210) 538-5385 (210) 538-5384 RSchulman@SLH-Law.com
Service Provider	RGC and Associates, Inc.
Funding Year	2003
Application Type and Application Number	Form 471, Application No. 367995
Funding Request Number	1002895
FCC Registration Number	0012546479
Appeal Reason	Determination to fully rescind funding commitment falls outside of record retention period.

August 15, 2017
Schools and Libraries Program – Correspondence Unit
RE: Appeal of Notification of Commitment Adjustment Letter, Page 2

To Whom It May Concern:

We are in receipt of the Notification of Commitment Adjustment Letter dated June 16, 2017 (“Notice”), issued by the School and Libraries Program (“SLP”) of the Universal Service Administrative Company (“USAC”) to our client, San Antonio Positive Solutions, Inc. DBA Positive Solutions Charter School (“SAPS”). On behalf of SAPS, we hereby submit this appeal of the Notice to USAC.

Reason for Appeal

The USAC Notice informed SAPS of its decision to fully rescind the funding commitment. The reason offered was an SLP review that “determined that the funds were erroneously committed for the funding request 1002895....” as “... not justified as cost effective.” The Notice did not identify specific rules supporting this determination except to state that SAPS was required to “select the most cost effective service or equipment offering, with price being the primary factor, which will result in it being the most effective means of meeting educational needs and technology goals.”

In that the applicable rule was not identified, we surmise that USAC alleges that SAPS failed to adhere to 47 CFR §§ 54.504 and 54.511, the CFRs in effect at the time that SAPS received its Funding Commitment Decision Letter dated March 30, 2004 (“Funding Letter”).

It is SAPS’ position in this appeal that it did fully comply with 47 CFR §§ 54.504 and 54.511. Notably, in response to SAPS’ solicited bids in 2003, it received a response from only one vendor, the selected vendor, RGC and Associates, Inc. Please refer to Exhibits A and B, notarized Affidavits of Arturo Suarez and Pamela Solitaire, respectively. As no other responsive bid was received, RGC, an E-rate qualified vendor, was the one and only “cost effective” vendor. SAPS did not retain these 13-year-old records, specifically, the vendor solicitation or bidder matrix (if there was a matrix) related to the statements of Mr. Suarez and Ms. Solitaire.

Significantly, at 47 CFR § 54.516(a), in effect at the time that SAPS received its Funding Letter, we find the following requirement:

Recordkeeping requirements. Schools and libraries shall be required to maintain for their purchases of telecommunications and other supported services at discounted rates the kind of procurement records that they maintain for other purchases.

The Funding Letter further stated:

RETAIN DOCUMENTATION – Applicants and service providers must retain documentation, including but not limited to, documents showing:

- compliance with all applicable competitive bidding requirements,

August 15, 2017

Schools and Libraries Program – Correspondence Unit

RE: Appeal of Notification of Commitment Adjustment Letter, Page 3

- products and/or services delivered (e.g., customer bills detailing make, model and serial number),
- resources necessary to make effective use of E-rate discounts, including the purchase of equipment such as workstations not eligible for support,
- the specific location of each item of E-rate funded equipment, and
- the applicant has paid the non-discount portion.

These documents must be retained and available for review for 5 years. (emphasis added).

Subsequent to the Funding Letter came more current administrative law, where we find the following rule at 47 CFR § 54.516(a) in effect during the period September 13, 2004 through August 18, 2014:

Recordkeeping requirements—(1) Schools and libraries. Schools and libraries shall retain all documents related to the application for, receipt, and delivery of discounted telecommunications and other supported services for at least 5 years after the last day of service delivered in a particular Funding Year. Any other document that demonstrates compliance with the statutory or regulatory requirements for the schools and libraries mechanism shall be retained as well. Schools and libraries shall maintain asset and inventory records of equipment purchased as components of supported internal connections services sufficient to verify the actual location of such equipment *for a period of five years after purchase.* (emphasis added).

Thus, under the record retention requirements in effect during the period of time preceding SLP's Notice, SAPS was not required to, nor did it retain records of its solicitation for proposals responsive to the subject matter of the Notice upon which USAC's determination is based.

Additionally, in its Fifth Report and Order adopted on August 4, 2004 ("Order"), the Federal Communications Commission ("FCC") proffered the following policy:

32. *Administrative Limitations Period for Audits or Other Investigations by the Commission or USAC.* We believe that some limitation on the timeframe for audits or other investigations is desirable in order to provide beneficiaries with certainty and closure in the E-rate applications and funding processes. For administrative efficiency, the time frame for such inquiry should match the record retention requirements and, similarly, should go into effect for Funding Year 2004. *Accordingly, we announce our policy that we will initiate and complete any inquiries to determine whether or not statutory or rule violations exist within a five year period after final delivery of service for a specific funding year.* We note that USAC and the Commission have several means of determining whether a violation has occurred, including reviewing the application, post application year auditing, invoice review and investigations. Under the policy we adopt today, USAC and the Commission shall carry out any audit or investigation

August 15, 2017
Schools and Libraries Program – Correspondence Unit
RE: Appeal of Notification of Commitment Adjustment Letter, Page 4


that may lead to discovery of any violation of the statute or a rule within five years of the final delivery of service for a specific funding year.¹

33. In the E-rate context, disbursements often occur for a period up to two years beyond the funding year. Moreover, audit work typically is not performed until after the disbursement cycle has been completed. *For consistency, our policy for audits and other investigations mirrors the time that beneficiaries are required to retain documents pursuant to the rule adopted in this order. We believe that conducting inquiries within five years strikes an appropriate balance between preserving the Commission's fiduciary duty to protect the fund against waste, fraud and abuse and the beneficiaries' need for certainty and closure in their E-rate application processes.* (emphasis added).

Commensurately, the FCC adopted an amendment to 47 CFR § 54.516(a) limiting the required retention of records to five (5) years. In issuing its Notice, USAC is essentially setting aside the FCC's Order regarding the "limitation on the timeframe for audits or other investigations." Accordingly, pursuant to the best recollection of the SAPS administrators in charge of the matter reviewed in 2004, and to ensure consistency with the FCC's policy, we respectfully submit that USAC must reconsider and retract its decision to "fully rescind the funding commitment."

Yours truly,

**SCHULMAN, LOPEZ,
HOFFER & ADELSTEIN, LLP**



Robert A. Schulman

¹ As observed in the Fifth Report and Order issued by the Federal Communications Commission, the limitation period established here relates to the time period within which one must bring an action to establish a debt due to a violation of E-rate program rules or the statutory provisions. In contrast, the DCIA statute of limitations relates to the time period within which the FCC must act to collect the debt once established. We note that this administrative limitation period is distinct from the DCIA statute of limitations, but it is offered here to demonstrate the policy intentions of the authorities on the issue of limitations and the retention of records necessary to bring and defend claims or charges. See Footnote 55 in the Fifth Report and Order.

EXHIBIT - I

August 15, 2017

Schools and Libraries Program – Correspondence Unit

RE: Appeal of Notification of Commitment Adjustment Letter, Page 5

RAS:cap

Enclosures

cc: Ronald Clontz, President, RGC and Associates, Inc.
(Letter Only)

Arturo Suarez, Director, Positive Solutions Charter School
(Letter and Enclosures)

STATE OF TEXAS

COUNTY OF BEXAR

AFFIDAVIT BY ARTURO SUAREZ

Before me, the undersigned authority, on this day personally appeared Arturo B. Suarez, who being by me first duly sworn, on oath stated as follows:

My name is Arturo B. Suarez. I am over the age of 18, am of sound mind and capable of making this affidavit. I understand that if I lie in this affidavit, I may be criminally responsible.

I am the Director/Superintendent of San Antonio Positive Solutions, Inc., doing business as Positive Solutions Charter School ("SAPS"), 1325 North Flores, San Antonio, Texas 78212. I have been Director/Superintendent of SAPS since November 1, 1993. I was the Director/Superintendent of SAPS in 2003, when a Form 470, Description of Services Requested and Certification Form, was submitted by PSCS for a Network Electronics and Cabling Project ("the project") for SAPS, FRN 002895. The project was undertaken because of the need to improve technology for the benefit of both students and staff.

On or about February 5, 2003, SAPS filed a Form 471, Description of Services Ordered and Certification Form, for E-rate discount rates with the Universal Service Administrative Company ("USAC") to cover the costs associated with the project, identified as "Internal Connections - Cabling," which included site survey work and the installation/configuration of network electronics and cabling. In March 2004, the USAC approved SAPS' application and allocated funding for the project totaling \$494,763.03. A proposal for the project was issued on January 31, 2003.

Records of these 13year-old transactions were either lost or destroyed, but it is my best recollection that in response to our request for vendor responses to a proposal for site survey and installation/configuration of network electronics and cabling, only one vendor responded. That proposal was from the selected vendor, RGC and Associates, Inc. We did maintain, and I attach to this affidavit, that one proposal as Exhibit A-1.

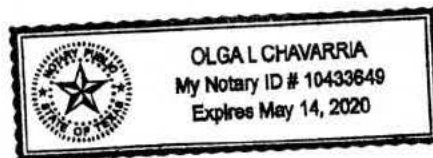
RGC and Associates, Inc. performed as contracted and was paid for its services Funding Year 2003 July 1, 2003 through June 30, 2004).


Arturo B. Suarez

Sworn to and subscribed before me on August 15, 2017, by Arturo B. Suarez, who is personally known to me.


Notary Public, State of Texas

My commission expires May 14, 2020

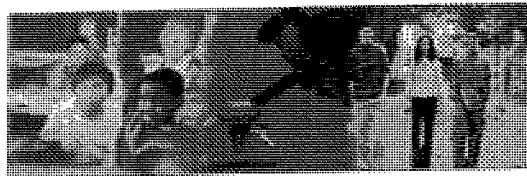


RGC and Associates, Inc. (RGC)

Statement of Work

for

NETWORK ELECTRONICS AND CABLING PROJECT



Prepared for
San Antonio Positive Solutions, Inc.
(Positive Solutions, Inc.)

January 31, 2003

The information in this Statement of Work shall not be disclosed outside Positive Solutions and shall not be duplicated, used or disclosed in whole or in part for any purpose other than to evaluate the proposal, provided that if a contract is awarded to RGC as a result of or in connection with the submission of this Statement of Work, Positive Solutions shall have the right to duplicate, use or disclose the information to the extent provided by the contract. This restriction does not limit the right of Positive Solutions to use information contained in the Statement of Work if it is obtained from another source without restriction.

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1. STATEMENT OF WORK

Statement of Work – Introduction

This section describes the Services that RGC and Associates will provide under the terms of the RGC Customer Agreement (*Agreement*) and this Statement of Work (SOW). Specifically, RGC will provide Positive Solutions, Inc. (PSI) with a set of customized e-ratable services, with supporting documentation. The details of the Services to be provided are described in this section. These Services will be provided at all eligible PSI locations in San Antonio, Texas.

Scope of Work to be accomplished by RGC includes the procurement, installation and testing of a network infrastructure that is capable of supporting PSI's educational technology requirements.

This Statement of Work is comprised of the following sections:

1. Assumptions
2. RGC Responsibilities
3. PSI Responsibilities
4. Deliverable Materials - Documentation
5. Project Schedule
6. Completion Criteria
7. Warranty
8. Charges

The following are incorporated in and made part of this Statement of Work:

- ◆ Appendix A, Deliverable Guidelines / Documentation
- ◆ Appendix B, Project Change Control Procedure
- ◆ Appendix C, Equipment
- ◆ Appendix D, Wiring Installation Standards
- ◆ Appendix E, Cabling Installation and Testing Specifications
- ◆ Appendix F, Signature Page

Changes to this Statement of Work will be processed in accordance with the procedure described in Appendix B, "Project Change Control Procedure." The investigation and the implementation of changes may result in modifications to the Schedule, Charges or other terms of this Statement of Work.

This proposal will expire December 31, 2004 unless this date is extended by RGC in writing.

1.1 Assumptions

This Statement of Work and RGC's estimates to perform the Statement of Work are based on the following assumptions. Deviations that arise during the proposed project will be managed through the procedure described in Appendix B, "Project Change Control Procedure."

The networking system environment consists of PSI's eligible sites.

1. No sites affected by RGC's performance under this SOW have been declared as "Historical Buildings."
2. RGC will provide up to 90 cable drops, which includes moves, adds and changes.
3. PSI eligible sites do not exceed one (1) location.
4. PSI school sites will be cabled and have closets prepared prior to the installation of network equipment.
5. PSI personnel who will be assigned to this project will have the technical skills necessary to participate in the project.
6. PSI and user personnel will be available as described in section 3.0, "PSI Responsibilities."
7. PSI will provide a current and accurate listing of each school site, to include network electronics hardware and software installed, and the number of MDF and IDF wiring closets.
8. Work under this Statement of Work will be performed at sites within PSI and will not require travel to school sites outside district boundaries.
9. Only those components specified in this SOW are to be supplied and installed by RGC. Additional components can be specified via the Project Change Control Procedure detailed in Appendix B.
10. Services to configure network electronics in each MDF or IDF will be performed at one time.
11. Work under this contract will be performed during school hours (7:00 a.m. and 4:00 p.m.) unless otherwise mutually agreed by RGC and PSI.
12. Work to be performed at specific sites will be mutually agreed and scheduled at least ten (10) business days prior to the commencement of the work.
13. RGC may use subcontractors in the performance of this SOW.
14. RGC and our subcontractor(s) will have unlimited, unrestricted access to all buildings. Any security requirements inclusive of guards, security codes/access codes, lighting and internal access and/or central monitoring are the responsibility of PSI.
15. RGC will be provided with access badges, keys and combinations or escorts to perform the work described in this SOW. Any delay encountered due to unavailability of buildings may result in additional charges being incurred by PSI. If this situation arises, it will be addressed via the Project Change Control Procedure detailed in Appendix B.
16. Adequate wall space/wiring closet space will be made available to RGC for the purpose of placing MDF/IDF products and equipment installed under this agreement. It is understood by RGC and PSI that any delay encountered due to insufficient wall space/insufficient wiring closet space may result in time delays and additional charges incurred by PSI. If this situation arises, it will be addressed via the Project Change Control Procedure detailed in Appendix B.
17. It is understood by PSI and RGC that this SOW is based upon the Start Date provided below. In the event this date is not achieved, RGC reserves the right to extend the project End Date on a working day for working day basis, and as mutually agreed by RGC and PSI, via the Project Change Control Procedure detailed in Appendix B.

18. It is understood by PSI and RGC that this SOW and the pricing associated with this SOW are based upon the award of the total proposed SOW described in this document. The work described in this SOW will be performed during one continuous phase.
19. RGC will not order product until after the site survey has been made and the configuration verified and agreed to by PSI.
20. PSI will provide access to the PSI network for support.
21. This Statement of Work applies to eligible buildings identified in FCC Form 471.
22. Delivery of product is dependent upon availability from our vendor(s).
23. All non-RGC products must be approved by RGC's Product Safety Review Board prior to RGC placing your order. If any product does not meet our product safety specifications, RGC will work with you to identify an alternate product. Procurement of an alternate product will occur only upon your approval.
24. Excluded from the Services Charge are items involving, but not limited to; repairs to the Location for correcting existing code deficiencies, painting, asbestos removal, plumbing, heating and ventilation, air conditioning work, etc.

Exclusions from this Statement of Work

1. RGC is not responsible under this SOW for the identification or correction of any existing safety and/or code violations, whether federal, state or local, including but not limited to fire and electrical codes. If RGC should discover any safety and/or code violations during the course of this project, RGC will notify PSI of the problem. RGC will not be required to proceed with its work under this SOW until PSI remedies such violation, nor will RGC be responsible for delays to the work caused by such violation.
2. It is specifically understood by PSI and RGC that all matters relating to detection and/or abatement or removal of asbestos, hazardous waste or other pollutants are beyond the scope of this contract and that RGC shall not be liable for any delay or additional cost incurred as a result of such detections and/or abatement. If asbestos, hazardous waste or other pollutants are uncovered during the course of the work on the contract, then PSI shall be responsible for retaining the experts necessary to remove such asbestos, hazardous waste or pollutants from the site. PSI shall also be responsible for any testing and corresponding with appropriate government authorities.
3. On-going network operations and coordination are not included in this Statement of Work. RGC would be pleased to respond to PSI for the addition of these services.
4. Relocation and testing of existing computers, telecommunications, or CCTV equipment(s) or systems are not required.
5. Removal of existing telecommunications or CCTV cabling is not required.
6. No data Media Converters are being supplied under this Statement of Work.
7. Installation of any hardware, software, and network electronics not specified in this SOW (e.g., workstations, servers, printers, routers, DSUs/CSUs, repeaters, modulators) is the responsibility of PSI. If RGC performs work on these excluded items, it must be done pursuant to a separate purchase order, and a separate SOW or PCR to this SOW.
8. It is understood by PSI and RGC that all matters relating to physical construction of new wiring closets/equipment locations and retrofits for existing wiring

closets/equipment locations, (general construction build out, HVAC, electrical, lighting, construction permits) is the responsibility of PSI.

9. Under the terms of this Statement of Work we are not responsible for 1) your products, 2) a third party's products (including products you license from our subcontractors) or 3) RGC's previously installed Products, ("Other Products") to correctly process or properly exchange accurate date data with the Products or deliverables we provide. We will be relieved of our obligations under this Statement of Work due to the inability of such Other Products to correctly process or properly exchange accurate date data with the Products or deliverables we provide to you.

2. RGC RESPONSIBILITIES

2.1 Project Management

Task Description

The objective of this task is to provide technical direction, maintain project control and establish a framework for project communications, reporting, procedural, and contractual activity for the RGC tasks described.

This task consists of the following activities:

- ◆ Establish and coordinate RGC efforts with the PSI Project Manager.
- ◆ Develop and maintain work plans for the performance of RGC responsibilities.
- ◆ Administer the Change Control Procedures.
- ◆ Schedule and attend regularly scheduled status meetings.
- ◆ Maintain communications and review progress with the PSI Project Manager and team members during status meetings.
- ◆ Prepare and submit written Monthly Status Reports of RGC activities to the PSI Project Manager.

Completion Criteria

This task will be considered complete when the project is complete and the final Monthly Status Report has been delivered to the PSI Project Manager.

Deliverables/Documentation

Monthly Status Reports.

2.2 Perform Site Survey

Description

The objective of this task is to visit PSI locations and perform a site survey. The sub-tasks are:

1. Verify and correct site general information.
2. Identify and document site's special considerations:
 - Site's labor requirements and works restrictions (e.g. union vs. Non-union environments, works hours, access restrictions, special condition or limitations) that may affect the site's rollout.
 - Safety regulations - as may apply from municipalities
 - Site security requirements
 - Any unusual site conditions (e.g., site to be closed in one week)
3. Identify Equipment Room locations and requirements
 - Isolated electrical power circuit availability
 - Heating and air-conditioning
 - True earth ground availability

- - Access security
- Fiber/Telephone circuit connection – DS3, T1, ISDN

Completion

This task will be complete for a site when the site visit is complete and a site survey document for the site is provided to the PSI Project Manager.

Deliverable/Documentation

Site Survey Document

2.3 Installation/Configuration of Network Electronics and Cabling

Description: The objective of this task is to configure and install Three (3), Cisco 2950 Switches, One (1) Cisco 2620 Router, Two Wireless Access Points, and the specified cabling, interconnects, and Configuration of the specified equipment. The Subtasks are:

1. Development of network design – Provide design and component list as part of response to IFB (470)
 - A. Meet with project team to discuss design parameters
 - B. Meet with selected Electronics Manufacturer to help determine new products.
 - C. Determine base component structure
 - D. Determine quantity of UPS' needed to protect all closets
2. Research and identify hardware components that fit hardware design
 - A. Research validity of base component structure
 - B. Research availability of necessary function, capability, and compatibility of recommended base components
 - C. Develop integrated hardware and software components
3. Develop detailed component list to match network design
 - A. Develop estimation criteria to base component numbers on
 - B. Match hardware and software component to estimated numbers to develop final equipment list
4. Survey all schools
 - A. Survey all currently installed hardware to determine current network status
 - B. Survey power in all MC's at each site and in each closet
 - C. Survey physical space in all MC's at each site and in each closet
5. Power designation walkthrough
 - A. Coordinate power designation walkthrough schedule with PSI facilities
 - B. Visit all eligible sites to determine placement of new 20A dedicated power circuits for MC network electronics (as needed)
6. Compilation of all data from Survey

- A. Develop a spreadsheet that shows totals of existing equipment available for trade-in
 - B. Submit equipment list to old Electronics Manufacturer and acquire trade-in amount document
 - C. Compile and submit document for all other survey results
 - D. Assisting in development of SLD submission packet for equipment purchase
 - E. Closet by closet compilation of final network drops to be used in developing school specific final component list
7. Development of closet-by-closet network electronics component list for all eligible sites
- A. Matching hardware and software components defined in the design process to the network drops counts to determine specific product configuration for every closet in every school
 - B. Develop network architecture (i.e. Routing protocols, VLAN development, QOS, IP protocol scheme etc.)
 - C. Develop detailed component configuration parameters
8. Receive, Inventory and Installation of electronic components
- A. Receive, inventory, break out components to match each individual campus and the district data center
 - B. Coordinate delivery and downtime for installation of electronics at each campus
 - C. Remove existing cabling and network electronics in each closet, at each campus as installation is being performed
 - D. Install new electronic components
 - E. Configure each individual electronic component in accordance with the developed configuration parameters
 - F. Patch new electronic components into cable plant – includes installation of wire management
 - G. Interconnect closet to closet communications
 - H. Connect local area network to wide area network
 - I. Test perform aspects of both local and wide area network
9. Asset Tag Management and Documentation
- A. Document all configuration parameters for each installed component
 - B. Document serial numbers, location and asset tags for each installed component
 - C. Document serial numbers and asset tags from each replaced component
 - D. Remove all old electronic components from campus site to staging area
 - E. Separate trade in components from non trade in components
 - F. Facilitate trade in of old components to appropriate manufacturer
 - G. Compile and submit all serial number to appropriate manufacturer to activate warranty coverage
 - H. Compile all documentation and turn over to District the end results (Site Installation Document)

Completion

This task will be complete for each PSI location when RGC delivers the Site Network Installation Document for that location to the PSI Project Manager.

Deliverables/Documentation

Site Network Installation Documentation

2.4 Install and Test Cabling

Task Description: RGC will install and test cabling in support of the adds, moves, and changes to the cabling plant at PSI per the specifications contained in Appendix D and Appendix E. The sub-tasks are:

- ◆ Provide moves, adds and changes to the existing cable plant. It is understood that moves of cable drops will be to a point closer to the communication closet. The cable drops moved will be tested to verify that they meet specification requirements. Estimated additional drops for moves, adds and changes are 90.
- ◆ Provide cabling connections between the main building at a campus and new buildings, which are not portables or cottages for the purpose of delivering signal to their ICs.
- ◆ Provide cabling to attach designated classrooms moved between campuses as required based on the terms outlined in the contract.
- ◆ Build portable ICs for classrooms moved between campuses as required based on the terms outlined in the contract.
- ◆ Install specified data drops including the installation of a cabinet rack in District computer labs, MCs, and ICs and HC's.
- ◆ Build MCs and ICs facilities as defined in Appendix E.
- ◆ Provide testing for the cabling installed under this SOW as defined in appendix E.
- ◆ Develop "As Built" drawings to document the cabling installation provided - documentation.
- ◆ Compile a Project Cabling Test Book - documentation.

Completion Criteria: This task will be considered complete when RGC delivers one (1) set of "As Built" drawings and one (1) copy of the Project Cabling Test Book to PSI.

Deliverables: Documentation:

- ◆ "As Built" drawings
- ◆ Project Cabling Test Book

3. PSI RESPONSIBILITIES

The responsibilities listed in this section are in addition to those responsibilities specified in the RGC Customer Agreement and are to be provided at no charge to RGC. RGC's performance is predicated upon the following responsibilities being fulfilled by PSI.

3.1 General Responsibilities

- ◆ Assign a Project Manager to represent PSI regarding this contract.
- ◆ Provide full access to all PSI school locations as required under this SOW.
- ◆ Communicate with appropriate PSI personnel of the work to take place and obtain their approval if necessary.
- ◆ Provide floor diagrams of affected campus locations in 8 1/2 x 11 hardcopy format.
- ◆ Provide all necessary closet and/or equipment areas for the location of network electronics, racks and cabinets as described in this SOW.
- ◆ Provide all necessary power and environmental support to accommodate all RGC and PSI provided equipment.
- ◆ PSI is responsible for all permits and associated fees.
- ◆ Provide all necessary configuration information to enable RGC's network equipment procurement and installation activities under this SOW.
- ◆ Inform RGC of any change in network requirements in accordance with the RGC Project Change Control Procedure in Appendix B.

3.2 Project Management

Prior to the start of this Statement of Work under the Agreement, PSI will designate a person, called the PSI Project Manager, to whom RGC communications will be addressed and who has the authority to act for PSI in all aspects of the contract.

The PSI Project Manager's responsibilities include:

1. Provide liaison between all project participants.
2. Manage the Project Change Control Procedure for PSI.
3. Attend project status meetings.
4. Obtain and provide information, data, decisions and approvals, within two (2) working days of RGC's request unless PSI and RGC agree to an extended response time.
5. Help resolve project issues and escalate issues within the PSI organization, as necessary.
6. Permit posting of any notifications required by applicable law for Services provided at your locations.
7. Provide required conduit and trenching within the project schedule timeframe should PSI require RGC to utilize buried or underground conduit that does not currently exist.
8. Provide personnel (if PSI desires) to witness and authorize standard testing of each school building as the installation/testing activities are completed.

9. Locate and mark all water, gas, electrical or any other underground pipes or cabling in the path required for the trenching for the fiber connection, before trenching can be started.

3.3 Space, Facilities and Utilities

Provide centralized and secure staging work area and facilities for performing the necessary staging and configuration of the RGC provided equipment.

Provide installation facilities for RGC provided equipment. PSI is responsible for space allocation, HVAC and electrical considerations. PSI is responsible for providing the power, light and water necessary for the performance of this project.

RGC and our subcontractor will have 24x7 access to all buildings to perform the RGC Responsibilities specified in this Statement of Work. Any security requirements inclusive of guard, security codes/access codes, lighting and internal access and/or central monitoring are the responsibility of PSI.

Adequate space will be made available for the installation of all products related to this project.

3.4 Security and Laws

PSI will identify and make the interpretation of any applicable federal, state, and local laws, regulations and statutes to see that the services provided by RGC comply.

4. DELIVERABLES / DOCUMENTATION

The following items will be delivered to PSI under this Statement of Work. See Appendix A, "Deliverable Guidelines" for a description of each deliverable.

- ◆ Status Report
- ◆ Site Survey Documentation
- ◆ Site Network Installation Documentation
- ◆ "As-built" drawings
- ◆ Project Cabling Test Results

5. PROJECT SCHEDULE

- ◆ Start Date – July 1, 2003
- ◆ End Date – June 30, 2004

5.1 Project Delays

RGC will not be responsible for delays or additional requirements imposed by any government agencies or unforeseen conditions such as delays in the progress of the project by your acts or neglect or the acts or neglect of your employees or separate contractors employed by you, by changes ordered in the project not caused by the fault of RGC, by labor disputes, fire, unusual delays in transportation, adverse weather conditions not reasonably anticipatable, unavoidable casualties or other causes beyond RGC's control or by another cause which you and RGC agree is justifiable.

6. COMPLETION CRITERIA

RGC shall have fulfilled its obligations under this Statement of Work when any one of the following occurs:

- ◆ RGC accomplishes the tasks described in section 2.0, "RGC Responsibilities,"
- ◆ Either of us terminates the Project in accordance with the provisions of the RGC Customer Agreement and this SOW.
- ◆ The End Date for the contract is reached.

7. PROJECT WARRANTY

RGC does not guarantee or warrant, express or implied, the materials used in workmanship of supplies, materials, equipment or machinery manufactured by third parties and furnished and installed under this Agreement. RGC shall endeavor to obtain from all vendors and suppliers and assign to Owner the customary warranties and guaranties of such vendors and suppliers with respect thereto. RGC shall render reasonable assistance to Owner when requested in order to enable the Owner to enforce such warranties and guaranties by third party manufacturers and suppliers.

There are no other warranties, express or implied, including but not limited to the implied warranties of merchantability and fitness for a particular purpose.

8. CHARGES

RGC will submit invoices per the payment schedule as stated below.

The Services Charge stated here represents the maximum allowable charges for all services that may be provided under this Statement of Work. RGC understands that the decision to implement this project is contingent upon award to Positive Solutions Inc. (PSI) of funding under the E-rate program. RGC will not begin work on this project without written notification from PSI that funding has been approved and that work should begin. If such notification has not been received by December 31, 2003, at RGC's option, RGC may terminate this Statement of Work or implement an extension of this Statement of Work, as well as changes in pricing or other terms and conditions as may be required, via the Project Change Control Procedure outlined in Appendix B.

Or this SOW may be extended upon mutual agreement between PSI and RGC as defined in the section titled Project Change Control Procedure. Should PSI not receive the requested funding for E-rate 6, PSI may terminate the SOW without further obligation. Should PSI receive only partial funding, RGC will work with PSI to incorporate those portions of this SOW that can be accomplished based upon available funding. It is specifically understood by RGC and PSI that no E-rate 6 activity will occur prior to RGC's receipt from PSI of written authorization to precede. It is understood by PSI and RGC that, should full or partial funding be received by PSI, and should PSI decide to initiate work on the project, that PSI will use this SOW and RGC as designated Solution Provider, to accomplish the agreed to scope of effort under the E-Rate program.

It is understood by PSI and RGC that this SOW and its associated pricing is based upon RGC receiving written approval from PSI to proceed with E-rate 6 no later than December 31, 2003. In the event this approval is not received by this date, RGC reserves the right to restructure the SOW, with PSI's concurrence, to incorporate only those tasks that can be successfully completed by RGC prior to June 30, 2004. This proposal will remain valid through December 31, 2003

Equipment Prices, License Fees and Service Charges:

Total Materials Price:	\$ 74,809.04
<u>Charges for Network Installation/Configuration</u>	<u>\$141,837.50</u>

TOTAL	\$ 216,646.54
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E-Rate Invoicing: Prior to commencing work, RGC requires 1) a fully signed contract signature sheet; 2) a P.O. in the amount that the E-Rate program is not funding (e.g. non-discounted portion of the eligible costs plus the non-eligible costs); 3) a copy of the USAC's Funding Commitment Decision Letter, and; 4) submittal of USAC Form 486.

As a service to PSI, RGC will perform dual billing per E-Rate terms and conditions. First, RGC will invoice PSI, as product is delivered to the PSI provided RGC staging site and as work is completed, for the 'non-discounted' portion of the ELIGIBLE items and any non-eligible items. Secondly, under separate invoice, RGC will invoice the E-Rate FCC Snowe-Rockefeller administration for the remaining discounted portion of the ELIGIBLE items. Payment is due as specified in the invoice.

Should PSI not receive the requested funding for E-rate or should PSI receive only partial funding, RGC will work with PSI to incorporate those portions of E-rate funding

that can be accomplished based upon available funding, after the Board has accepted the E-Rate funding.

Please note that although RGC will bill PSI for the 'non-discounted' portion and other charges not eligible under the E-Rate program, PSI assumes responsibility for the entire contract services charge, should PSI not inform RGC of any changes in the funding status or work effort. Notwithstanding any other provision, PSI has the right to terminate this agreement for business reasons if written termination notice is given to RGC prior to any work being performed or service provided.

Excluded from the Services Charge are items involving, but not limited to; repairs to the Location for correcting existing code deficiencies, painting, asbestos removal, plumbing, heating and ventilation, air conditioning work, etc

RGC Service Provider Identification Number (SPIN): 143025918

RGC reserves a purchase money security interest in the Machines provided until RGC receives payment of the amounts due. You authorize RGC to prepare and file a financing statement to perfect its purchase money security interest in all Machines you order and RGC delivers under this Statement of Work.

RGC terms of payment are Net 30 days.

Appendix A: DELIVERABLE / DOCUMENTATION GUIDELINES

1. Monthly Status Reports

Purpose: RGC will provide Status Reports Monthly during the project to describe the activities, which took place during that period. Significant accomplishments, milestones and problems will be described.

Delivery: One (1) hard copy will be delivered to the PSI Project Manager, within five (5) working days following the reporting period.

Content: The report will consist of the following, as appropriate:

- Activities performed during the reporting period
- Activities planned for the next reporting period
- Project change control summary
- Problems, concerns, and recommendations
- Billing summary

2. Site Survey Document—Documentation

Purpose

RGC will provide a Site Survey Document for PSI location detailing locations, requirements, and special considerations.

Delivery

One (1) hard copy of the document and on (1) electronic copy will be delivered to the PSI Project Manager.

Content

The report will consist of the following, as appropriate:

- Site general information
- Site special considerations
- Equipment room locations and requirements

3. Site Network Installation Document

Purpose

RGC will provide a Network Installation Document summarizing the installation of equipment at a PSI location as specified in Appendix C.

Delivery

One (1) hard copy of the document and one (1) electronic copy will be delivered to the PSI Project Manager for each location where Network equipment is installed under this SOW.

Content

The report will consist of the following, as appropriate:

- Equipment List with Serial Numbers
- Configuration Information
- Physical location information

4. "As-built" Drawings

Purpose:

RGC will provide 8 1/2" x 11" "As-built" drawings, marked-up plan views showing drop and MC/IC equipment locations.

Delivery:

One (1) hard copy will be delivered to the PSI Project Manager within thirty, (30) working days following the completion of the project.

Content, as appropriate:

The report will show drop and MC/IC equipment locations.

5. Project Cabling Test Results

Purpose:

RGC will deliver one (1) copy of the Project Cabling Test Results. This will be a copy of the Cable Test Forms for Category 5e data cabling and fiber optic cabling.

Delivery:

One (1) hard copy will be delivered to the PSI Project Manager within thirty, (30) days of project completion.

Content:

The report will show cable tests results for all cable installed on this project.

Appendix B: PROJECT CHANGE CONTROL PROCEDURE

When both of us agree to a change in this Statement of Work, a written description of the agreed change (called a "Change Authorization") will be prepared, which both parties must sign. The Change Authorization will describe the change, the rationale for the change, and specify any change in the charges, schedule or other terms. Depending on the extent and complexity of the requested changes, RGC may charge for the effort required to analyze it. When charges are necessary in order to analyze a change, RGC will provide a written estimate and begin the analysis on written authorization. The terms of a mutually agreed upon Change Authorization will prevail over those of this Statement of Work or any previous Change Authorization.

Appendix C: EQUIPMENT LIST

Equipment:

RGC will provide the following internal connections equipment and associated documentation in accordance with the terms and conditions of this SOW:

QTY	DESCRIPTION/BRAND	Make/Model	Unit Quote	Extended Quote
	Cabling Equipment			
1	Rack - Hub Building	Elite 525061-1F	\$ 1,357.00	\$ 1,357.00
1	Router 8 port	Cisco 2620XM	\$ 9,599.30	\$ 9,599.30
3	Switches	Cisco 2950GE-SX	\$ 4,707.02	\$ 14,121.06
3	48 port Patch panels		\$ 236.00	\$ 708.00
90	Faceplates		\$ 1.30	\$ 116.82
90	Jacks		\$ 3.54	\$ 318.60
90	Box eliminators		\$ 1.18	\$ 106.20
450	RaceWay		\$ 2.36	\$ 1,062.00
154	Patch cables 3 ft		\$ 1.77	\$ 272.58
80	Patch cables 15 ft		\$ 3.54	\$ 283.20
11	Wire manager		\$ 35.40	\$ 389.40
2	Shelf		\$ 129.80	\$ 259.60
1	DSU/CSU	DDS/T1 MT102A-R2	\$ 2,205.42	\$ 2,205.42
1	UPS	IBM 37L-6861	\$ 4,484.00	\$ 4,484.00
1	Power Strip		\$ 70.80	\$ 70.80
450	Interduct		\$ 1.77	\$ 796.50
36	Couplings		\$ 1.65	\$ 59.47
19	Cat5e		\$ 199.42	\$ 3,788.98
1	Ties/Raps/Plates		\$ 2,950.00	\$ 2,950.00
		Series 8000		
3	Wireless Access & Cable	LW8001A/LW0050A-R2	\$ 10,620.00	\$ 31,860.00
	Network Equipment Install Services			
440	Installation		\$ 166.25	\$ 73,150.00
210	Configuration		\$ 140.00	\$ 29,400.00
150	Maintenance		\$ 140.00	\$ 21,000.00
110	Project Management		\$ 166.25	\$ 18,287.50

Non-Eligible Components

QTY	DESCRIPTION/BRAND	Unit Quote	Extended Quote
1	Firewall	\$ 15,990.18	\$ 15,990.18
1	Anti-Virus Appliance	\$ 4,714.10	\$ 4,714.10

Appendix D: WIRING INSTALLATION STANDARDS

Telecommunications wiring standards and practices

Foreword

The purpose of this section is to set forth standards for the installation of low voltage wiring typically used for telephone or data communications in any and all facilities of the PSI. This document is intended to establish acceptable installation practices in all PSI buildings and should be used as a contract addendum for all projects done by contract involving such wiring. As such, this document binds any contractor awarded work involving low voltage wiring to conform to the specifications herein.

Specifications

Placement/appearance

- ◆ All wiring should be placed in ceilings and walls, with only a jack (or other connector) on a faceplate establishing a connection point in all classrooms, offices, and other public areas. Data communications jacks are normally RJ45 and fiber optic cable terminations are normally ST connectors (either crimped or UV curved). These jacks and terminators will reside preferably on the same faceplate in a classroom or office. External control devices, which would normally be placed on interior surfaces in a commercial building, must conform to UL standards and be listed by UL.
- ◆ Inside wiring closets, data connections can be made to patch panels, or (if the specifications so state) to surface mount faceplates with exposed wiring, with said wiring being bundled, and appropriately labeled. Patch cables connecting equipment must be contained in cable management trays, or wire wrapped to ensure the serviceability of the cable plant.
- ◆ Low voltage wiring terminating at other equipment (, multimedia distribution equipment, etc.) must conform to the connection standards of the equipment manufacturer. All such wiring must be appropriately labeled and if the wire is run into a classroom, library, multimedia room, or lab, it must be neatly installed with cables either bundled or installed into cable management devices.
- ◆ The use of Raceway TM, Wiremold TM, or other surface mount cable channel in any classroom, hallway, or other public area is expressly prohibited without prior authorization from the PSI.
- ◆ All wiring in the ceiling is to be bundled appropriately and labeled to ensure maintainability and serviceability. Said bundles are to be securely attached to the roof support structure and should not be attached to any other wire, pipe, HVAC fixture, ceiling supports, etc. Cable paths must avoid interfering with the serviceability of all existing facilities above the ceiling.

Standards

The PSI follows the EIA/TIA 568B standards for data communications cable, and all new data communications cable installed must be category 5e compliant, and be certified as such by testing with electronic scanners. All data cable compliance certifications must be delivered to the PSI prior to completion of the installation. All fiber optic cable installed must also be tested for compliance with standards and certification of such compliance must be reported to the PSI prior to the completion of the project.

Documentation

RGC Statement of Work for
Network Electronics

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Exhibit A-1

The district has a structured wiring plan in place; all additional wiring installed must be labeled appropriately. Labeling designations can be obtained from the Network Service Group of the Division of Technology. It is strongly recommended that any wiring installations be coordinated with the Network Services Group and the Facilities Departments.

Working in the campuses

Unless prior arrangements have been made with campus and District personnel, any wiring work must be performed during non-school hours. Most campus' classes are scheduled between 7:00 a.m. and 4:00 p.m. Therefore, as a general rule, all wiring work must be done at night, on weekends, or during school holidays.

Unless other arrangements are made in advance, all classrooms, hallways, and other public areas must be restored to their normal appearance at the end of each work shift. Ceiling fans must be replaced, wall plates must be installed, and the area must be left clean in preparation for the next school day. No wiring ends, supply leftovers, or any other residue is to be left at the campus. Communication closets can be left in the work in progress stages so long as it does not interfere with the serviceability of the network and communications equipment in these rooms.

At the completion of the wiring project, all ceiling tiles must be securely in place, all access points must be covered and be cosmetically and structurally complementary of the existing building. All supplies, equipment, and tools are to be removed from the building.

Firewalls

It is the responsibility of the wiring installer to ensure that any firewall penetrations are properly sealed and conform to building codes regulating firewalls and the sealing of penetrations.

Final Walkthrough

Every wiring job will be subject to a final walk through to establish conformance with these standards. The wiring contractor is obligated to provide personnel to accompany District personnel on such inspection, if requested. Any discrepancies with these standards must be corrected before the project can be considered complete. Acceptance of the contracted work by the district will be accomplished at the final walkthrough, and is a prerequisite to payment of any invoice for services.

Appendix E: CABLING INSTALLATION AND TESTING

Installation of a New MC

- Furnish and install Main Cross Connect (M.C.) that all data connections may be cross-connected from. This M.C. will be furnished and installed as per the Specifications Document and will contain the following, as appropriate and required:
- (1) 4' x 8' x .75" Virgin Plywood backboard that has been fire retardant treated at least 3 times with an approved treatment and firmly attached to the wall
- (1) 7' x 19" communications rack firmly attached to floor or 6 ft. cabinet.
- Ladder tray/stabilizer firmly attached to wall and proceeding up wall into ceiling for a complete cabling pathway for distribution
- Ceiling interface with ladder tray to give a good aesthetic appearance and protection of cabling
- Grounding and bonding to existing TMGB, or the installation of a new TIA/EIA 607 Grounding and Bonding System.
- 48 Port Modular Patch Panels Labeled for Data
- 24 Port Modular Patch Panel Labeled for Data
- (2 -6) Wire Managers as needed
- (Qty) 1 and/or 3meter enhanced category 5e color coded data patch cables

Installation of a New IC

- Furnish and install an Intermediate Cross Connect listed as (I.C.#_) located in the Telecommunications Closet (Room _) located in the computer storage area that all data connections may be cross-connected from. This I.C. will be furnished and installed as per the Specification Document and will contain the following, as appropriate and required:
- (1) 4' x 4' x .75" Virgin Plywood backboard that has been fire retardant treated at least 3 times with an approved treatment and firmly attached to the wall
- (1) 3' x 19" x 18" Wall mounted black swing away rack (double hinged) or 2' or 4' cabinet.
- (1) Ladder tray proceeding up wall into ceiling for a complete cabling pathway for distribution
- (1) Ceiling interface with ladder tray to give a good aesthetic appearance and protection of cabling
- (1) Grounding and bonding to existing TMGB, or the installation of a new TIA/EIA 607 Grounding and Bonding System.
- (3) 48 Port Modular Patch Panels Labeled for Data
- 1 (24) Port Modular Patch Panel Labeled for Data
- (2 - 6) Wire Managers as needed.
- (Qty) 1 and/or 3meter enhanced category 5e color coded data patch cables

Additional Work to MC (Re-Work, Clean-Up)

- Each MC (Main Cross Connect) required for additional work will have the following possible corrections:
- Re-locate existing rack and all attached media cables connected and terminated onto the rack; Re-test some or all existing circuits for test certification; Re-label some or all existing cabling circuits. Confirm or provide a qualified TGB for proper earthing and bonding of the MC.

Additional Work to IC (Re-Work, Clean-Up)

- Each IC (Intermediate Cross Connect) required for additional work will have the following possible corrections:
- Re-locate existing rack and all attached media cables connected and terminated onto the rack; Re-test some or all existing circuits for test certification; Re-label some or all existing cabling circuits. Confirm or provide a qualified TGB for proper earthing and bonding of the IC.

Connecting Campus MC to Campus IC (Inside Plant 12-strand fiber optic cable only)

- All MC to IC design will be of the indoor type with a maximum length of 200' with not more than 3 inside cores through what may be firewalls to deliver pathway.
- RGC will provide wire management to ensure a comprehensive, neat completion of work.
- AS BUILT schematics on cabling performed will be supplied.

Connecting Campus MC to Campus IC (Inside Plant) (Turn-Key)

- ♦ All MC to IC design will be of the indoor type with a maximum length of 200' with not more than 3 inside cores through what may be firewalls to deliver pathway.
- ♦ Furnish and install one (1) 4' x 19" Swing Away Rack onto a ¾" plywood backboard that has been fire retardant treated and firmly attached to the wall area.
- ♦ RGC will provide wire management to ensure a comprehensive, neat completion of work.
- ♦ AS BUILT schematics on cabling performed will be supplied.

Single Cable Drops

- ♦ Each single drop location will be serviced by the following cables: one (1) each category 5e, 4-pair cable. The number of locations will be determined by RGC, and PSI prior to installation. Each Single Drop is priced using existing pathway only – existing pathway definition means RGC will not have to core through walls, add conduit, or add Raceway.
- ♦ The following is the dual drop termination scheme (the equipment to be connected to is assumed to already be in place at the telecommunications closet end) for each cable:
- ♦ Work Area Outlet:

CableTermination

Category 5e Data

RJ45 Category 5e 568B Insert

◆ Telecom Room:

CableTermination

Category 5e Data

Rack mounted 48-port Cat 5e RJ45 568B
high density patch panel

- ◆ RGC We will provide wire management to ensure a comprehensive, neat completion of work.
- ◆ AS BUILT schematics on work to be performed will be supplied.

Dual Cable Drops

- ◆ Each dual drop location will be serviced by the following cables: two (2) each category 5e, 4-pair cables. The number of locations will be determined by RGC and PSI prior to installation. Each Dual Drop is priced using existing pathway only – existing pathway definition means RGC will not have to core through walls, add conduit, or add Raceway.
- ◆ The following is the dual drop termination scheme (the equipment to be connected to is assumed to already be in place at the telecommunications closet end) for each cable:
- ◆ Work Area Outlet:

CableTermination

Category 5e Data

RJ45 Category 5e 568B Insert

◆ Telecom Room:

CableTermination

Category 5e Data

Rack mounted 48-port Cat 5e RJ45 568B
high density patch panel

- ◆ RGC will provide wire management to ensure a comprehensive, neat completion of work.
- ◆ AS BUILT schematics on work to be performed will be supplied.

Dual Data Drops

- ◆ Each dual drop location will be serviced by the following cables: two (2) each category 5e, 4-pair cables. The number of locations will be determined by RGC and

PSI prior to installation. Each Dual Drop is priced using existing pathway only – existing pathway definition means RGC will not have to core through walls, add conduit, or add Raceway.

- ◆ The following is the dual drop termination scheme (the equipment to be connected to is assumed to already be in place at the telecommunications closet end) for each cable:

- ◆ Work Area Outlet:

<u>Cable</u>	<u>Termination</u>
Category 5e Data	RJ45 Category 5e 568B Insert
Category 5e Data	RJ45 Category 5e 568B Insert

- ◆ Telecom Room:

<u>Cable</u>	<u>Termination</u>
(2) Category 5e Data	Rack mounted 48-port Cat 5e RJ45 568B high density patch panel

- ◆ RGC will provide wire management to ensure a comprehensive, neat completion of work.
- ◆ AS BUILT schematics on work to be performed will be supplied.

Wiring a Lab within a Room – “In-Wall” (IW) Design

- ◆ Lab Design cable drops will not exceed 100' in length and shall not include any core or firewall penetrations for this S.O.W.
- ◆ Furnish and install up to twenty (20) Category 5e, 4-pair twisted, Plenum solid core copper cable drops into a single classroom (Lab). These cable drops will be through sheetrock pathways with dropped acoustical ceilings and will be suspended onto Caddy Cat.32 “J” Hooks at no more than 5' intervals on red metal or on ceiling support positions but not on ceiling grids or ceiling hanging wires.
- ◆ Furnish and install up to five (5) Quad-Plex Faceplates of single gang construction for W.A.O. (Work Area Outlet) design to deliver service to the students. These faceplates will be flush mounted into Sheetrock walls utilized with Caddy BB-10's.
- ◆ Furnish and install one (1) 48-port modular patch panel for final central Horizontal connection point.
- ◆ Furnish and install one (1) Wire Manager for neat and proper pathway placement.
- ◆ Furnish and install up to twenty (20) Jacks into faceplates.
- ◆ Furnish and install up to seventy two (72) Category 5e Patch Cables in either 1 or 3-meter design for use at the W.A.O. or at the Patch Panel.
- ◆ RGC will provide wire management to ensure a comprehensive, neat completion of work.

- ◆ AS BUILT schematics on cabling performed will be supplied.

Wiring a Lab within a Room – “Outer-Wall” (OW) Design

- Lab Design cable drops will not exceed 100' in length and shall not include any core or firewall penetrations for this S.O.W.
- Furnish and install up to twenty (20) Category 5e, 4-pair twisted, Plenum solid core copper cable drops into a single classroom Lab. These cable drops will run down the outer wall with Wiremold proceeding from dropped acoustical ceilings and will be suspended onto Caddy Cat.32 “J” Hooks at no more than 5' intervals on red metal or on ceiling support positions but not on ceiling grids or ceiling hanging wires.
- Furnish and install up to five (5) Quad-Plex Faceplates of single gang construction for W.A.O. (Work Area Outlet) design to deliver service to the students. These faceplates will be surface mounted onto the outside of the wall utilizing Wiremold and on surface mounted boxes.
- Furnish and install one (1) 48-port modular patch panel for final central Horizontal connection point.
- Furnish and install one (1) Wire Manager for neat and proper pathway placement.
- Furnish and install up to twenty (20) Jacks into faceplates.
- Furnish and install up to seventy-two (72) Category 5e Patch Cables in either 1 or 3-meter design for use at the W.A.O. or at the Patch Panel.
- RGC will provide wire management to ensure a comprehensive, neat completion of work.
- AS BUILT schematics on cabling performed will be supplied.

Existing Cable Removal

- RGC will include the removal of any abandoned cable left within the schools as a result of the replacement of an existing media with the installation of a new media cable. (Data, Voice or Video)
- Any abandoned cable not replaced by RGC with the installation of a new media cable will be covered with a blank faceplate and the existing cable left within the walls and or ceilings.

1. Functional Testing

Functional Testing will be performed in conformance with the following:

Fiber Meter – Transmission and path loss testing (Fiber meter test method). RGC will perform fiber meter testing on all fiber optic cable installed under this SOW. Soft Copy test results will be provided.

Category 5e Cable – Category 5e compliance testing per UL standards. RGC will perform Category 5e testing on the Category 5e cable installed under this SOW in accordance with EIA/TIA standards. Soft Copy test results will be provided.

Appendix F: SIGNATURE PAGE

RGC (we) will provide, and PSI (you) agrees to accept, RGC Services (Services) for "RGC Statement of Work for Network Electronics and Cabling" under the terms and conditions of the RGC Customer Agreement and this Statement of Work. For Scope of Services, Completion Criteria, Charges and other applicable terms refer to the RGC Statement of Work dated 31 January 2003.

RGC is aware of the District's reliance on an outside source of funding (Universal Service Fund) to execute on the implementation tasks described in this SOW. Should Positive Solutions, Inc. (PSI) not receive the requested funding for E-rate 6, PSI may terminate the SOW without further obligation. Should PSI receive only partial funding, RGC will work with PSI to incorporate those portions of this SOW that can be accomplished based upon available funding. It is specifically understood by RGC and PSI that no E-rate 6 activity will occur prior to RGC's receipt from PSI of written authorization to precede. It is understood by PSI and RGC that, should full or partial funding be received by PSI, and should PSI decide to initiate work on the project, that PSI will use this SOW and RGC as designated Solution Provider, to accomplish the agreed to scope of effort under the E-Rate program, after the Board accepts the E-Rate funding.

It is understood by PSI and RGC that this SOW and its associated pricing is based upon RGC receiving written approval from PSI to proceed with E-rate 6 no later than December 31, 2003. In the event this approval is not received by this date, RGC reserves the right to restructure the SOW, with PSI's concurrence, to incorporate only those tasks that can be successfully completed by RGC prior to June 30, 2004. This proposal will remain valid through December 31, 2003

Total Charges: \$216,646.54, which includes travel and living expenses. Both of us agree that the complete agreement between us regarding these Services will consist of 1) this Statement of Work and 2) the RGC Customer Agreement (or any equivalent agreement signed by both of us).

Agreed to:

San Antonio Positive Solutions, Inc.

By


(Authorized Signature)

Name

Date 2/5/03

Customer Number

Customer Address

1325 North Flores

San Antonio, TX 78212

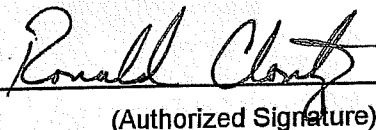
Start Date: July 1, 2003

RGC Statement of Work for
Network Electronics

Agreed to

RGC and Associates, Inc.

By


(Authorized Signature)

Name

Date 2/5/03

RGC Customer Agreement No.

RGC Office Address:

115 E. Travis St. Suite 1500

San Antonio, TX 78205

End Date: June 30, 2004

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Exhibit A-1

STATE OF TEXAS

COUNTY OF BEXAR

AFFIDAVIT BY PAMELA M. SOLITAIRE

Before me, the undersigned authority, on this day personally appeared Pamela M. Solitaire, who being by me first duly sworn, on oath stated as follows:

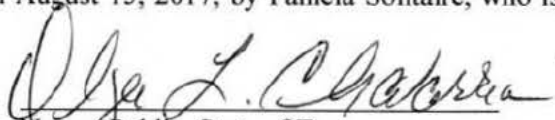
My name is Pamela M. Solitaire. I am over the age of 18, am of sound mind and capable of making this affidavit. I understand that if I lie in this affidavit, I may be criminally responsible.

I was the Director for San Antonio Positive Solutions, Inc., doing business as Positive Solutions Charter School ("SAPS"), 1325 North Flores, San Antonio, Texas 78212, from November 01, 1993 through April 2, 2013. I was the person at SAPS who, in 2003, was responsible for drafting, completing and submitting a Form 470, Description of Services Requested and Certification Form, for a Network Electronics and Cabling Project ("the project") for SAPS, FRN 1002895.

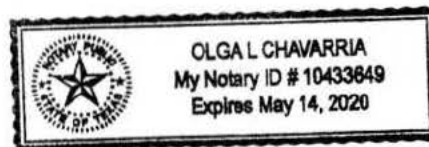
As I recall, RGC and Associates, Inc. was the sole vendor that submitted a proposal to SAPS.


Pamela M. Solitaire

Sworn to and subscribed before me on August 15, 2017, by Pamela Solitaire, who is personally known to me.


Notary Public, State of Texas

My commission expires May 14, 2020





September 19, 2018

Arturo Suarez
 Superintendent
 Positive Solutions Charter School
 1325 North Flores, Suite 100
 San Antonio, TX 78212
psi@positivesolutinsinc.net

Re: Applicant Name: POSITIVE SOLUTIONS CHARTER SCHOOL
 Billed Entity Number: 226729
 Form 471 Application Number: 367995
 Funding Request Number (FRN): 1002895
 Your Correspondence Dated: July 12, 2018, August 9, 2018

Dear Mr. Suarez,

This letter responds to your July 12, 2018 correspondence, consisting of two letters. In the first letter, PSCS requested that USAC reconsider its decision to demand payment of approximately \$161,000 from Positive Solutions Charter Schools (PSCS) for failing to select cost-effective services as required by the E-rate program rules and asked for an opportunity to demonstrate that the funding was compliant with the regulatory and statutory requirements.¹ In the second July 12, 2018 letter, PSCS requested to pay the owed debt in installments if USAC denied the request for reconsideration of the decision to seek recovery from PSCS.²

By way of background, on June 16, 2017, USAC issued a letter notifying PSCS that it was rescinding the commitment for the above-referenced FRN and would seek recovery of disbursed funding because the school did not select cost-effective services as required by the E-rate program rules.³ On August 15, 2017, PSCS appealed USAC's recovery action.⁴ On January 8, 2018, USAC issued its decision denying PSCS's appeal, indicating that PSCS did not comply with E-rate program rules requiring

¹ See Letter from Arturo Suarez, Superintendent, Positive Solutions Charter School to the Universal Service Administrative Company (July 12, 2018) (PSCS's First July 12, 2018 Letter).

² See Letter from Arturo Suarez, Superintendent, Positive Solutions Charter School to the Universal Service Administrative Company (July 12, 2018) (PSCS's Second July 12, 2018 Letter).

³ See Letter from Universal Service Administrative Company to Arturo Suarez, Superintendent, Positive Solutions Charter School (June 16, 2017) (notifying PSCS that USAC was rescinding the commitment for FRN 1002895 because the applicant did not select cost-effective services and would be seeking recovery for approximately \$161,000).

⁴ See Letter from Robert A. Schulman, Counsel to PSCS to the Universal Service Administrative Company (August 15, 2017) (arguing that the services were cost-effective because only one bid was received and that the documentation was no longer available as the retention period was only for five years for this FY 2003 funding request).

Mr. Suarez
September 19, 2018
Page 2 of 3

applicants to select cost-effective services and that this requirement applied even when only one bid was received.⁵

On June 27, 2018, USAC issued the first demand payment letter to PSCS seeking to recover approximately \$161,000.⁶ In the demand payment letter, USAC explained that PSCS did not select cost-effective services as required by the rules.⁷ The demand payment letter further explained PSCS could request a review of the records supporting this debt and/or request a payment plan within fifteen (15) days of the date of the letter.⁸ On July 30, 2018, USAC sent a second demand payment letter to PSCS.⁹

On July 12, 2018 and August 9, 2018, PSCS responded to the two demand payment letters. As noted above, in the first July 12th letter, PSCS stated that it did not receive USAC's decision regarding its August 17, 2017 appeal and requested that USAC reconsider its decision to recover funding from PSCS and provide an opportunity for PSCS to demonstrate that the E-rate funding met all statutory and regulatory requirements.¹⁰ In the second July 12th letter, PSCS requested to pay the owed debt in installments if USAC denied its request for reconsideration regarding recovery for this funding.¹¹ On August 9, 2018, PSCS responded to USAC's Second Demand Payment Letter noting that it was awaiting responses to its prior July 12, 2018 letters.¹²

As explained above, on January 8, 2018, USAC denied PSCS's appeal. USAC mailed the appeal decision directly to PSCS and to PSCS's counsel, Robert Schulman. When PSCS did not timely appeal this decision to the Federal Communications Commission (FCC or Commission) within the sixty (60) day deadline, USAC continued with the recovery process and issued the first demand payment letter.¹³

PSCS now requests that USAC reconsider its decision to seek recovery of E-rate funding and provide PSCS with an opportunity to demonstrate that the E-rate funding met the statutory and regulatory requirements. However, under E-Rate program rules, an affected party seeking review or waiver of a USAC decision must file the request with the FCC within 60 days of the date on which USAC issued

⁵ See Appeal Decision Letter from Universal Service Administrative Company to Robert Schulman, Counsel to PSCS (Jan. 8, 2018) (January 2018 ADL) (explaining that even when only one bid is received, the applicant must select cost-effective services and that no extenuating circumstances were provided to justify the higher costs for these services).

⁶ See Letter from Universal Service Administrative Company to Arturo Suarez, Superintendent, Positive Solutions Charter School (June 27, 2018) (First Demand Payment Letter).

⁷ See *id.* at 4.

⁸ See *id.* at 3 ("Positive Solutions Charter School may also request a written agreement to repay the Debt, but only if it makes the request within 15 days of the date of this letter.").

⁹ See Letter from Universal Service Administrative Company to Arturo Suarez, Superintendent, Positive Solutions Charter School (July 30, 2018) (Second Demand Payment Letter).

¹⁰ See PSCS's First July 12, 2018 Letter. PSCS also requested additional documentation regarding this debt. However, USAC has provided all of the documentation regarding this matter in August 2017, and does not have any further documentation to provide to PSCS.

¹¹ See PSCS's Second July 12, 2018 Letter.

¹² See Letter from Arturo Suarez, Superintendent, Positive Solutions Charter School to Universal Service Administrative Company (Aug. 9, 2018).

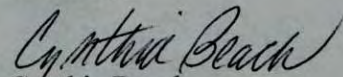
¹³ See First Demand Payment Letter.

Mr. Suarez
 September 19, 2018
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its decision.¹⁴ As PSCS did not timely appeal USAC's January 8, 2018 denial decision to the FCC, USAC was therefore required to continue the recovery action as USAC cannot waive or modify the FCC's appeal deadline rule.¹⁵ USAC is also not able to treat PSCS's July 12, 2018 letter requesting reconsideration of the demand payment letter as an appeal because the FCC has previously determined that demands for the repayment of outstanding universal service fund (USF) debts are not appealable actions.¹⁶ Accordingly, USAC is required to continue seeking recovery for this funding from PSCS.¹⁷

Currently, there are two options available to PSCS. PSCS may request a waiver of the 60-day appeal deadline by filing a waiver request with the Commission. Additional information on requesting a waiver from the FCC is available on USAC's website at <https://www.usac.org/about/about/program-integrity/appeals.aspx> (How to File an Appeal with the FCC). Alternatively, PSCS may continue the process for requesting a payment plan as indicated in its second July 12, 2018 letter and begin repaying the debt. USAC will contact PSCS regarding next steps if PSCS wants to continue the process for obtaining a payment plan. Please let us know if you plan to request a waiver from the Commission or if you want to continue the process for requesting a payment plan. You can contact me at Cyndi.Beach@usac.org to inform USAC of your decision, or if you have any further questions about this matter.

Sincerely,



Cynthia Beach

Manager, Schools and Libraries Division
 USAC

cc: Hon. Joaquin Castro

¹⁴ 47 C.F.R. § 54.720(a).

¹⁵ See generally, 47 C.F.R. § 54.702(c) (2013) ("[USAC] may not make policy, interpret unclear provisions of the statute or rules, or interpret the intent of Congress."). See 47 C.F.R. § 54.719(c) ("Parties seeking waivers of the Commission's rules shall seek relief directly from the Commission.").

¹⁶ *Application for the Review of a Decision of the Wireline Competition Bureau by Net56, Inc., et al.*, CC Docket 02-6, Order, 32 FCC Rcd 963, 965-66, para. 5 (2017) (*Net56 Order*) (denying request to allow parties to appeal demand payment letters explaining that a "Demand Payment Letter is not the decision being appealed; it is issued for the purpose of recovering funds that USAC or the Commission have previously determined were erroneously disbursed.").

¹⁷ See *Changes to the Board of Directors of the National Exchange Carrier Association, et al.*, CC Docket Nos. 96-45 and 97-21, Order, FCC 99-291 (1999) (*Commitment Adjustment Order*); *Changes to the Board of Directors of the National Exchange Carrier Association, et al.*, CC Docket Nos. 96-45 and 97-21, Order, 15 FCC Rcd 7197 (1999) (*Commitment Adjustment Waiver Order*); *Changes to the Board of Directors of the National Exchange Carrier Association, et al.*, CC Docket Nos. 96-45 and 97-21, Order, 15 FCC Rcd 22975, 22980, para. 11 (2000) (*Commitment Adjustment Implementation Order*). See also 31 U.S.C. § 3711(a)(1); 31 C.F.R. § 901.1 (requiring aggressive collection actions).

**Before the
Federal Communications Commission
Washington, DC 20554**

In the Matter of)	
)	
Request for Review of a)	
Decision of the)	
Universal Service Administrator by)	
)	
Keyport School District)	File No. SLD-388346
Keyport, New Jersey)	
)	
Schools and Libraries Universal Service)	CC Docket No. 02-6
Support Mechanism)	

ORDER

Adopted: October 20, 2009

Released: October 20, 2009

By the Acting Chief, Telecommunications Access Policy Division, Wireline Competition Bureau:

I. INTRODUCTION

1. In this order, we address an appeal by Keyport School District (Keyport) of a decision by the Universal Service Administrative Company (USAC) denying Keyport's request for funding under the schools and libraries universal service support mechanism, also known as the E-rate program, on the ground that the underlying application violated the Commission's competitive bidding requirements.¹ As explained below, we find that Keyport did not violate the Commission's competitive bidding rules.² We therefore grant the appeal and direct USAC to discontinue recovery actions against Keyport consistent with this order.

II. BACKGROUND

2. Under the E-rate program, eligible schools, libraries, and consortia that include eligible schools and libraries may apply for discounts for eligible telecommunications services, Internet access, and internal connections.³ The Commission's rules provide that an eligible school, library, or consortium that includes eligible schools and libraries must seek competitive bids for all services eligible for support.⁴ Applicants thus must submit for posting on USAC's website an FCC Form 470 requesting discounts for

¹ See Letter from Jessica A. Nilsen, Thomas Communications and Technologies, on behalf of Keyport School District, to Office of the Secretary, Federal Communications Commission, CC Docket No. 02-6 (dated Oct. 26, 2006) (Request for Review). Section 54.719(c) of the Commission's rules provides that any person aggrieved by an action taken by a division of USAC may seek review from the Commission. 47 C.F.R. § 54.719(c).

² 47 C.F.R. §§ 54.504, 54.511.

³ 47 C.F.R. §§ 54.501-54.503.

⁴ 47 C.F.R. § 54.504. An existing contract signed on or before July 10, 1997 is exempt from the competitive bidding requirements. See 47 C.F.R. § 54.511(c).

E-rate eligible services, such as tariffed telecommunications services, month-to-month Internet access, or any services for which the applicant is seeking a new contract.⁵ The applicant must describe the requested services with sufficient specificity to enable potential service providers to submit bids for such services.⁶ The applicant must provide this description on its FCC Form 470 or indicate on the form that it has a request for proposal (RFP) available providing detail about the requested services.⁷ The RFP must be available to all potential bidders for the duration of the bidding process.⁸

3. After submitting an FCC Form 470, the applicant must wait 28 days before making commitments with the selected service providers.⁹ The applicant must consider all submitted bids prior to entering into a contract, and price must be the primary factor in selecting the winning bid.¹⁰ Once the applicant has selected a provider and entered into a service contract, the applicant must file an FCC Form 471 requesting support for eligible services.¹¹

4. In addition to following the Commission's competitive bidding requirements, applicants are also required to follow state and local procurement procedures.¹² Specifically, an applicant must certify compliance with applicable state and local procurement laws when submitting its FCC Form 471 application.¹³ A request for support for E-rate eligible services could be denied if it is determined that the applicant did not comply with program rules, including any applicable state and local procurement requirements.¹⁴

5. Request for Review. On October 22, 2003, USAC posted Keyport's FCC Form 470 to initiate the competitive bidding process for eligible services under the E-rate program for funding year 2004.¹⁵ Keyport subsequently entered into a contract with its selected service provider and submitted its

⁵ 47 C.F.R. § 54.504(b).

⁶ *Id.*

⁷ *See, e.g.,* Schools and Libraries Universal Service, Description of Services Requested and Certification Form, OMB 3060-0806 (September 1999) (FCC Form 470); Schools and Libraries Universal Service, Description of Services Requested and Certification Form, OMB 3060-0806 (October 2004) (current FCC Form 470).

⁸ *See, e.g.,* Schools and Libraries Universal Service, Description of Services Requested and Certification Form, Instructions for Completing the Schools and Libraries Universal Service Description of Services Requested and Certification Form, OMB 3060-0806 (September 1999) (FCC Form 470 Instructions); Schools and Libraries Universal Service, Description of Services Requested and Certification Form, Instructions for Completing the Schools and Libraries Universal Service Description of Services Requested and Certification Form, OMB 3060-0806 (October 2004) (current FCC Form 470 Instructions).

⁹ 47 C.F.R. §§ 54.504(b)-(c).

¹⁰ 47 C.F.R. § 54.511(a).

¹¹ *See* Schools and Libraries Universal Service, Services Ordered and Certification Form, OMB 3060-0806 (October 2000) (FCC Form 471); Schools and Libraries Universal Service, Services Ordered and Certification Form, OMB 3060-0806 (November 2004) (current FCC Form 471).

¹² 47 C.F.R. § 54.504(a).

¹³ *See* FCC Form 471, Block 6.

¹⁴ *See* 47 C.F.R. § 54.504(c)(1)(viii).

¹⁵ FCC Form 470, Keyport School District (posted Oct. 22, 2003) (Keyport FCC Form 470).

FCC Form 471 application for funding year 2004.¹⁶ On July 20, 2004, USAC approved Keyport's request for support.¹⁷ During post-funding review, however, USAC determined that it was unable to verify Keyport's compliance with Commission and state and local competitive bidding requirements because Keyport failed to provide documentation of its competitive bidding process (e.g., an RFP, bid evaluation sheets, or copies of bids submitted).¹⁸ USAC therefore rescinded Keyport's funding commitment.¹⁹ USAC later affirmed its decision on appeal.²⁰ Keyport then filed the instant request for review with the Commission.²¹

6. In its appeal to the Commission, Keyport states that it complied with Commission and state and local procurement laws.²² Specifically, Keyport explains that New Jersey procurement law does not require a school district to competitively bid for purchases under \$25,000 if the purchasing agent for the school is a "qualified" agent.²³ Keyport states that, because the purchase price for the services at issue was under \$25,000 and Keyport's purchasing agent was "qualified," it was not required under state law to seek competitive bids.²⁴ Keyport thus maintains that, consistent with state law, it did not post an RFP for the services at issue.²⁵ Keyport, however, asserts that it complied with the Commission's competitive bidding requirements by submitting an FCC Form 470 to USAC for posting on its website and observing the 28-day waiting period before entering into a service contract.²⁶ Keyport states that it indicated on the FCC Form 470 that it had not released an RFP.²⁷ Lastly, Keyport indicates that it received one bid in response to the FCC Form 470 posting.²⁸

III. DISCUSSION

7. We grant Keyport's request for review. Based on the record before us, we find that Keyport's competitive bidding process complied with E-rate program rules.²⁹ We disagree with USAC's

¹⁶ FCC Form 471, Keyport School District (filed Feb. 3, 2004) (Keyport FCC Form 471).

¹⁷ Letter from USAC, Schools and Libraries Division, to Jessica Nilsen, Keyport School District (dated July 20, 2004) (Keyport Funding Commitment Decision Letter).

¹⁸ See Letter from USAC, Schools and Libraries Division, to Jessica Nilsen, Keyport School District (dated Apr. 28, 2006) (Keyport COMAD Letter).

¹⁹ *Id.*

²⁰ See Letter from USAC, Schools and Libraries Division, to Jessica Nilsen, Keyport School District (dated Aug. 28, 2006) (Keyport Appeal Decision).

²¹ See Request for Review.

²² *Id.* at 2.

²³ *Id.*

²⁴ *Id.*

²⁵ *Id.*

²⁶ *Id.*; see also Keyport FCC Form 470.

²⁷ Request for Review at 3.

²⁸ *Id.*

²⁹ See 47 C.F.R. §§ 54.504, 54.511.

determination that funding should be denied on the ground that Keyport failed to provide copies of its RFP, bid evaluation sheets, or other documentation related to the bidding process.³⁰ The record shows that Keyport posted an FCC Form 470 to USAC's website soliciting bids for the services at issue.³¹ Under New Jersey law, Keyport was not required to release an RFP because Keyport's purchasing agent was "qualified" and the cost of the services at issue was \$13,740.³² Therefore, consistent with state law, Keyport was not required to have created an RFP.

8. Moreover, prior to funding year 2005, the Commission had not adopted rules describing the types of documents E-rate program participants were required to keep in order to demonstrate compliance with the Commission's competitive bidding rules.³³ Rather, the Commission's rules in effect at the time of Keyport's application required each entity to maintain, for their purchases of telecommunications and other supported services, "the kind of procurement records that they maintain for other purchases."³⁴ Keyport, therefore, had no obligation to produce documentation that it would not normally maintain for other purchases, particularly where the state law did not require Keyport to seek competitive bids. We thus find, based on our review of the record, that Keyport complied with the Commission's competitive bidding requirements.³⁵ In addition, we find no evidence of waste, fraud, or abuse, or misuse of funds, or a failure to adhere to core program requirements with respect to this procurement. We therefore grant Keyport's request for review and direct USAC to discontinue recovery actions against Keyport.

9. We emphasize that the Commission is committed to guarding against waste, fraud, and abuse, and ensuring that funds disbursed through the E-rate program are used for appropriate purposes. Although we grant the appeal addressed herein, this action does not affect the authority of the Commission or USAC to conduct audits or investigations to determine compliance with the E-rate program rules and requirements. Because audits or investigations may provide information showing that a beneficiary or service provider failed to comply with the statute or the Commission's rules, such proceedings can reveal instances in which universal service funds were disbursed improperly or in a manner inconsistent with the statute or the Commission's rules. To the extent the Commission finds that funds were not used properly, the Commission will require USAC to recover such funds through its normal processes. We emphasize that the Commission retains the discretion to evaluate the uses of monies disbursed through the E-rate program and to determine on a case-by-case basis that waste, fraud, or abuse of program funds occurred and that recovery is warranted. The Commission remains committed to ensuring the integrity of the program and will continue to aggressively pursue instances of waste, fraud, or abuse under the Commission's procedures and in cooperation with law enforcement agencies.

³⁰ See *supra* para. 5.

³¹ Keyport FCC Form 470.

³² Request for Review at 2, citing N.J.S.A. 18A-1, *et seq.* (providing that a school is not required to solicit bids for purchases under \$25,000 when the purchasing agent for the school is a qualified agent).

³³ See *Schools and Libraries Universal Service Support Mechanism*, CC Docket No. 02-6, Fifth Report and Order and Order, 19 FCC Rcd 15808 (2004) (*Schools and Libraries Fifth Report and Order*) (adopting more stringent document retention requirements).

³⁴ *Id.* at 15823, para. 45.

³⁵ 47 C.F.R. §§ 54.504, 54.511.

IV. ORDERING CLAUSES

10. ACCORDINGLY, IT IS ORDERED, pursuant to the authority contained in sections 1-4 and 254 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151-154 and 254, and pursuant to authority delegated under sections 0.91, 0.291, and 54.722(a) of the Commission's rules, 47 C.F.R. §§ 0.91, 0.291, 54.722(a), that the request for review filed by Keyport School District on October 26, 2006, IS GRANTED.

11. IT IS FURTHER ORDERED, pursuant to the authority contained in sections 1-4 and 254 of the Communications Act of 1934, as amended, 47 U.S.C. §§ 151-154 and 254, and pursuant to authority delegated under sections 0.91, 0.291, and 54.722(a) of the Commission's rules, 47 C.F.R. §§ 0.91, 0.291, 54.722(a), that USAC SHALL DISCONTINUE its recovery action against Keyport School District.

12. IT IS FURTHER ORDERED that, pursuant to section 1.102(b) of the Commission's rules, 47 C.F.R. § 1.102(b), this order SHALL BE EFFECTIVE upon release.

FEDERAL COMMUNICATIONS COMMISSION

Jennifer K. McKee
Acting Chief
Telecommunications Access Policy Division
Wireline Competition Bureau